

# The Principle of Democracy in Albania, from the Basic Acts of the State in Its Implementation

**Ismail Tafani**

Head of the Department of Legal Sciences and  
Lecturer at the Albanian University, Tirana, Albania

## Abstract

The principle of democracy is seen as the basic pillar of the construction and function of a state. Of course, for the implementation of this principle, different ideologies have been developed, often in contradiction with each other. Ideologies which undoubtedly saw in the principle of democracy the birth and functioning of a state and as a consequence of a governing model which was to be based precisely on the sovereignty of the people and the full expression of its will. In Albania after the end of the Second World War we have the birth of a form of government which was based on the organization of the state according to communist theory. The communist ideology, which developed after the division of the world into two camps, which were the result of the Second World War meant to bring to Albania the realization of the principle of democracy. With the consolidation of the power of the communist party which resulted in the creation of the party-state, the principle of democracy consisted in its expression more as a slogan than as an objective for the development and functioning of society and the functioning of power as the genuine will of the people. Consequently, after the fall of the Berlin Wall, as in all former communist countries and in Albania, what the people demanded was the establishment of a state where the principle of democracy was the foundation of its government. Not in vain after the acceptance of political pluralism by the now completed monopoly of the party-state, the establishment of a system based on the principle of democracy was required. However, the creation of political pluralism after the change of the system does not seem to have brought a realization of the principle of democracy as a basis for the functioning of a democratic state as required by Albanian society. It can even be said that the principle of democracy remains an endless challenge for the entire political spectrum in Albania, although this principle always needs to be consolidated. Through this paper it is sought to analyze how the principle of democracy is required to be adopted by all leaders of any kind of government even though in itself it will have to belong to the people. This paper aims to highlight how in the case of political pluralism and even more so in the existence of a single party the principle of democracy remains a challenge, although it forms the basis of all fundamental acts of the Albanian State since the end of the Second World War.

**Keywords:** Principle of democracy, state, communism, political pluralism, technology

## Introduction

Addressing and the principle of democracy in Albania and consolidating it in this country is a challenge itself. The principle has been spread and supported both by liberal and non-liberal representatives, however, it has not been a natural process. The paradox even seems to lie in the fact that sometimes the principle of democracy has been spoken of by leaders who have exercised their power in a dictatorial manner.

To analyze the consolidation of the principle of democracy, both representatively and directly, it must be acknowledged that this is a principle which did not have a culmination in its realization, rather it requires a constant consolidation. In studying this principle, one should also keep in mind the fact that the principle itself carries some nuances where regimes that define different forms of government advertise and legitimize their power on its basis.

In this context it can be underlined that even authoritarian regimes, let alone so liberal regimes state and advertise the principle of democracy as the foundation of their government. For this reason, identifying and defining it becomes even more difficult by referring to the meaning of the word itself. In Albania, the principle of democracy has been mentioned since the moment of the declaration of independence by the Ottoman Empire. But sanctioned in the basic charter, this principle is found for the first time in the 1946 statute.

The Albanian Statute of 1946 paved the way for the creation of a government that today is considered dictatorial. In fact the system itself accepted the dictates in its governance, at least formally. The implementation of the basic ideology of this system was based on the dictatorship of the proletariat as in all communist countries which were inspired by what they called the victory of the people. In this respect there seems to be precisely the dilemma of how dictatorial and liberal forms of government are based on the principle of democracy but their end result is markedly different. This fact, as a result makes the analysis of this principle very difficult, not to say impossible.

In 1946, Albania, which had declared independence from the Ottoman Empire, had gone through several stages which had called into question the territorial sovereignty of the state. There was never any talk of popular sovereignty over the political system of government that should represent the people. Thus, shortly after the determination of the status covered by Albania in the Balkan region by the great powers, we have the beginning of the First World War which questioned the territorial sovereignty of the recently independent state. For this reason the enemy of the people or of democracy was identified in the foreigner or invader. So any other form of relationship that could be created between *demos* and *kratos* seemed to be in the spirit of the principle of democracy.

So any governing system seeks to establish the principle of democracy at its foundations but ultimately it is understood that the concept and perception of this principle is not the same. In this sense an expression can be mentioned which calls to the *demos* reminding him how many things are done by *kratos* in their name but it cannot be said at the same time that they are done to them as well.

## **1. The principle of Democracy in Albania and the regime it chose after the end of second World War.**

After the end of the second World War, the governing regime changed in all European countries and in Albania. The alternatives presented to European countries were a choice between capitalism ideology and communist ideology.

In Albania, even because of the dominance of the partisans over the war, the ideology they propagated was communism. What was long propagated politically in Albania was the war won by the partisans, which under the shadow of the communist ideology gathered under itself the popular mass. This was considered an achievement of Albania and was later sanctioned in the Statute of the Republic, where in its article 2 it was determined that the power gained from the war was represented by the popular councils. The latter were the result of the victory of the war against the Nazis and the Fascists.

Since the independence of the Albanian state, various politicians have often said that respect for fundamental rights and freedoms were the basis for the birth of a democratic regime. In Albania, the principle of democracy, at least from a formal point of view, would be seen expressed in a basic charter only in 1946. This would happen only after the end of second World War, thus after a historical context which can be considered as a worldwide revolution.

In the first fundamental act that communist leaders realized after coming to power, the expectations were for the adoption of a democratic card. Thus, Article 1 stated "Albania is People's Republic, where all power comes from the people and belongs to the people." This statute, continuing below the line chosen by many European monarchical regimes, determined that Albania was a Republic, and even specified it with the popular name. For this reason, it is natural to think that the democratic principle of governing this Republic was sanctioned in its founding act.

The choice of this form of government seemed like a guarantee for the principle of democracy on which the Albanian state would function, so its activity would be like a will of the people. To take an example, it can be said that this happened in the Constitution of Italy which entered into force in 1948 which in its article 1 sanctioned that "Italy is a democratic Republic based on work".

In this context, it is worth noting that the French Revolution marked the transition of state forms from the regime of absolute monarchies to the form of the democratic state in Europe (Rotelli, 2005). While the French Revolution can be considered the beginning of the democratic state, the forms of republican government chosen by many countries after second World War seem to have marked another step in this process.

To return to the Statute of the People's Republic of Albania, Article 2<sup>1</sup> must be evidenced, which defines the form of respect for the principle of democracy sanctioned in Article 1, it seems that this is a purely formal principle. This is because the power that was created, precisely by the liberation war that the people themselves had organized against the Nazi and

---

<sup>1</sup> Statute of the People's Republic of Albania, 1946, article 2 "In the People's Republic of Albania, the people exercise their power through representative bodies of state power, which are the people's councils, which were born in the national liberation war against fascism and reaction and represent the greatest victory of the main masses of the Albanian people. These bodies are freely elected by the people from the local councils to the People's Assembly.

fascist regime limited the right to choose. Hence, power was by default and the alternative to the sovereign to be represented in government was limited by default.

At this point what is worth mentioning is that the representatives of the people although they could be freely elected through free elections they could not be from that part of the representatives who were considered reactionary within the meaning of Article 2 of the Statute of the People's Republic. These elements were the representatives of the "National Front" and the "Legality". In this context, it can be said that the principle of democracy sanctioned in the Article 1 of the Statute was violated precisely by the conditioning of the will of the people to be represented. This seemed to seriously undermine the ability of the people to choose, which meant that Article 1 of the Statute was in complete contradiction with Article 2 thereof.

The statute of 1946, which was drafted in the spirit of Marxist ideology, can clearly be said to have laid the foundations for the consolidation of communist power, that is mono-party power, which saw in Marxist theory the only alternative to the realization of popular sovereignty, the principle of democracy.

Although it is difficult to reach a clear conclusion on the principle of democratic regime in the above article, we see the embodiment of the classical meaning of democracy as a way of governing where power is defined in the phrase "From people, to people, for people".

This, for Albania would last for a period of almost half a century and after the Constitution of 1950 or even the Constitution of 1976 nothing would change in terms of defining and perceiving the democratic principle of governance. This perception can be defined within a broader concept of democracy in which the party instrument occupies an important place, being a certain notion of the mass party as an integral part of it (Gambilonghi 2017, p. 129).

To analyze the communist concept of democracy it is worth quoting important doctrines, where it can be mentioned that «Kelsen sees in Marxist theory a strong will and determination to eliminate "the principle of majority as the foundation of democracy"; a will that, in his view is the expression of a theoretical-political project based on the use of "revolutionary violence" as means of overcoming " class struggle " rather than a "peaceful solution"» (Lagi 2017, p. 373).

The principle of democracy, which meant that power came from the people and belonged to the people was based on the illusion created by the Statute of the People's Republic of Albania. This must have happened because in the "constitutional experience of communist countries lie two elements of the Stalinist state approach. The first of these is the unification of decision-making policy, according to which all decisions taken in the public sphere must refer to the popular will, the expression of which is the party as its protector and guarantor as well as the real engine of the system it uses the state to build socialist society by preparing the disappearance of the state, used to achieve the goal" (Sbailo 2008, p. 13).

## **2. The principle of democracy after the fall of the communist system in Albania**

For many scholars but also individuals, the principle of democracy finds a genuine embodiment when the people themselves are represented by multiple alternatives. This definition seems correct for the fact that the people, although expressed in the singular, consist of different groups and currents which find reflection in the alternatives to choose from.

In the law "On the main constitutional provisions" that would become the basic legal norm for allowing political pluralism in Albania, the principle of democracy seemed to take on a

different definition. In fact, Article 2 of this law stipulated that the Republic of Albania was a legal and democratic state. The same article stated that “Human dignity, rights and freedoms, free development and constitutional order, equality before the law, social justice and social support and pluralism are the basis of this state, which foresees the obligation to respect and protect them”.

Based on the content of Article 2 of the law “On the main constitutional provisions”, it appears that the Albanian Parliament that had adopted this law recognized that the principle of democracy was closely linked to the fundamental human rights and freedoms and political pluralism.

In fact, among the main slogans of the first parties that enabled the creation of political pluralism in Albania after the fall of the communist regime were precisely “freedom and democracy”. So in this logic it can be said that the principle of democracy cannot be implemented without respect for fundamental human rights and freedoms. But at the same time a value for the consolidation of the principle of democracy is precisely the existence of political pluralism, which will translate the different wills of the people.

In this context, however, it is worth noting the important doctrine that has widely spoken of the principle of democracy. If we refer to Noberto Bobbio, he states that “When it is required to know whether there has been a development of democracy in a certain country, it should not be seen whether the number of those who have the right to participate in decisions related to them, but the spaces in which they can exercise this right” (Bobbio 1984, p.16).

Thus, the application of the principle of democracy is not related to the possibility that can be given to the number of individuals but to the weight that they can occupy in the decision-making process. In this logic it can be said that the majority as an alternative more correctly represents the essence of the principle of democracy, but with the spaces that political pluralism can create. On the other hand, what should be emphasized is that «the modern state is born as a representative state, but not democratic, at least in the sense that the tradition of ancient thought attributes the term “democracy”» (Morelli 2015, p. 199).

### **2.1. The 1998 Constitution as a democratic act to consolidate the principle of pluralist democracy**

In 1998 in Albania after a not very short transitional period with the law on the main constitutional provisions was approved by the majority of the Parliament, the Constitution of the Republic of Albania.

In this Constitution, the principle of democracy is mentioned in its preamble and can be said to be the basis of the functioning of the Albanian state. This would be reinforced by the fact that the Albanian Parliament decided to approve it through a popular referendum.

In this way, the Albanian people approved their Constitution which, unlike the law on the main constitutional provisions was much more complete and detailed. These details refer to both the form of government through the separation and balance of powers and the content of the principles and rights it encompassed. In terms of human rights, it must be said that the Constitution made possible their modernization by bringing to a high degree their system similar to the European dimensions (Omari 2004, p. 295).

At this point it should be noted that democracy can gain added value if it includes “political rights, which are attributed to all as capable citizens to act, as a method for forming decision-

making bodies, representative of popular sovereignty but also of civil autonomy in the direct forms of exercising civil rights, which are attributed to everyone as citizens capable of acting, as a method to produce negotiating acts such as contracts" (Ferrajoli 2014, p. 142).

The above definition seems to be a substantial difference between the principle of democracy expressed by the communist system in the Republic of Albania from what seems to have started to be implemented the system based on political pluralism. Even after many years of the existence of political pluralism in Albania, the debate seems to be ongoing over the impossibility of realizing the principle of democracy.

One of the problems of political pluralism reflected as a principle of the Constitution today is the electoral process and more specifically the voting process. The latter in any case does not seem to solve the problem of democracy because the form of «vote», which in today's representative democracies "is the vote not to decide, but to choose who will decide", or - in Kelsen's definition - choice as the "method of selecting leaders", while in ancient times it was "the power of the *demos*, not, as today, the power of the representatives of the *demos*» (Grosso 2015, p.6).

It should be noted that there is no electoral system that perfectly reflects through elections the sovereignty of the people, and thus the realization of democracy through the choice of alternatives (Tafari-Sina 2020). The problem seems to lie in the fact that alternatives seem more like an option not to choose than an option to choose. This is also related to the dissatisfaction that different political alternatives have created over the years in the Albanian reality. In this way they have created a gap between *demos* and *kratos*, this seems to have made the principle of democracy in Albania remain an impossible challenge.

In Albanian political pluralism, which seems to identify the principle of democracy, where it recognizes the people as sovereign, representative democracy takes on value. In this way the contacts between *demos* and *kratos* are periodically as provided in the Constitution, once in 4 years. These contacts are realized through the electoral process which in Albanian political pluralism has never been considered free. Although it has been constantly asked to evaluate this process as a basis for the realization of the principle of democracy, this has come as a result of the constant demands of the European Union. However, it should be emphasized that democracy is not an organizational formula because if we looked at it in this form we could not recognize any democratic deficit in the European Union itself (Bin 2014, p.4).

The implementation of democracy in Albania is based on the fate of the electoral process which consists in determining the representatives of the people in Parliament. After that, the people do not seem to be involved in the decision-making process in what defines direct democracy. In this way all the decision-making weight is left in the hands of the Parliament, which in a system of political pluralism consists of the majority and the minority. At this point it is worth noting that "The Parliament that Kelsen imagines should give ample space to the minority, generally a majority of voices, because only in this way, in his opinion it will be extremely difficult for the majority to impose on unilaterally its will." (Lagi 2017, p. 373).

What may hinder the realization of the principle of direct democracy seems to be the consolidated tradition of representative democracy. The latter seems to have made possible the strengthening of the representatives more than the strengthening of the principle of democracy. It is therefore worth noting that the procedures for expressing political decisions

although necessary may not be sufficient as a reference of today's constitutional democracies having the same notion of political democracy to define democracy (Ferrajoli 2012, p. 79).

### **3. Development of technology as an opportunity to implement the democratic principle according to its original meaning**

To preserve and save democracy it is necessary that those who make decisions must do so in defense of democracy itself (Zakaria 2003, p. 17). This becomes even more necessary in the context of technology developments where the possibility of expression of individuals or groups has increased significantly.

With the development of technology it seems that the democratic principle is returning to the meaning it had in its origins. In this way, direct democracy can prevail over representative democracy. The development of technology would make the contact between *demos* and *kratos* much closer and the implementation of the principle of democracy in the sense of the word. In this way, obstacles in the decision-making process would be avoided in cases when the Parliament is not able to reach a certain majority and consequently to implement the principle of democracy.

The principle of democracy enshrined in the Constitution, both indirectly and directly can be implemented with the help of technology. This, especially when some questions arise about the real role of Parliament as a representative of the sovereign.

There is an obvious tendency of today's governments to bypass the involvement of Parliament in the decision-making process. Even when this is not possible from a constitutional point of view, the role of the Parliament seems to be minimized in the formalization of government decision-making. The decision-making process of the Parliament should be legal but above all constitutional, should be based in the Parliamentary debate if we are not facing a crisis for the Parliaments (Pasquino-Pelizzo 2006, p. 15).

In the case of Albania's outright democracy, the role of the government seems to significantly dominate the supremacy provided in the parliament's constitution as the direct representative of the people. The application of technology in the Republic of Albania where the principle of democracy has been propagated in various forms and ways would at least make it possible for this principle to finally materialize.

If it can be said that there are two steps to implementing the principle of democracy, and the first is formalization, there is no question that the second should be its materialization. In this way, after the formalization of the principle of Democracy in all the fundamental acts of the Albanian state, perhaps it is the historical context where it materializes. At least in this way the propaganda of this principle would be undone, which seems to have been more opposed to its realization than it has filled the gap that it has created in the relationship with the people.

Apparently this happened due to the fact of lack of political will to maintain a constant relationship with the representatives. In this way what should have been a choice between alternatives is presented as a single alternative not to choose. This has made a limitation of the principle of democracy which if not directly exercised does not seem to exist.

In any case, it is worth noting that direct democracy cannot replace representative democracy according to the contemporary concept of democratic state, but serve as an integral or complementary element of it (Bilancia 2017, p. 2).

#### 4. Conclusion

In this paper it is pointed out that the principle of democracy can take different definitions. These definitions can be determined mostly by the form chosen for the implementation of this principle in a society. Although the principle of democracy is ancient, it seems that it remains a concept that must be adapted to social change. Being a principle which is based on values, it will have to consolidate them in the process of modernization and adaptation to the requirements of the evolved society.

The paper, paying attention to the concept of democracy, realized a historical treatment of this principle in the Albanian society. The principle of democracy is based on the principle of popular sovereignty and as a result, after the independence of the Albania, its representatives have placed it at the center of their propaganda.

This paper highlights how diametrically opposed ideologies seek to implement the principle of democracy in exercising the power of their representatives over the people. But apparently here also arises the contradiction because this principle would be considered realized when the people exercised governing power even through the representatives elected by them.

Different systems of government in Albania, starting from the communist regime which was based on Marxist theory claimed to give value to the principle of democracy. However, the realization of this principle remains a challenge for the political pluralism that arose after the fall of the communist regime in Albania. To increase the perception of this principle, the dimension of the individual or his rights is indisputably needed, first as an individual and then as a part of society.

From this point of view, although the fundamental acts of the Albanian state that after the end of the second World War in Albania have propagated the implementation of the principle of democracy, it is clear that its true value rests on the Constitution based on political pluralism.

Also, this paper highlights that the principle of democracy in general, but more specifically in Albania can use an opportunity to consolidate thanks to the development of technology. In this way, decision-making would be based more on direct democracy and would make possible the implementation of one of the forms of the principles of democracy. It would certainly be good not to replace representative democracy but to supplement it with the sole purpose of consolidating the principle of democracy.

#### References

- [1] Bilancia, P. (2017). *Democrazia diretta vs Democrazia rappresentativa Profili problematici nel costituzionalismo contemporaneo*, in *Federlismi.it*, special numbers 1/2017, p. 2
- [2] Bin, R. (2014). *Nuove strategie per lo sviluppo democratico e l'integrazione politica in Europa. Relazione finale*, in *AIC- Rivista*, 3/2014, p.4.
- [3] Bobbio, N. (1984). *Il futuro della democrazia*, Torino, Einaudi, 1984, p. 16
- [4] Constitution of the Republic of Italy, 1948.
- [5] Ferrajoli, L. (2012)., *La democrazia costituzionale (Constitutional Democracy)*, in *Revus Journal for Constitutional Theory and Philosophy of Law / Revija za ustavno teorijo in filozofijo prava*, 18/2012, p. 79.

- [6] Ferrajoli, L. (2014). *La democrazia attraverso i diritti. Un dialogo tra filosofi e giuristi*, in *Diritto e questioni pubbliche*, 2014, p. 142.
- [7] Gambilonghi, M. (2017). *Democrazia di massa e comunismo critico. In memoria di Pietro Ingrao*, in R. Gramiccia, S. Oggioni (a cura di), *La ginestra. Contributi per una nuova Sinistra*, Bordeaux, 2017, p. 129.
- [8] Grosso, E. (2015). *Democrazia rappresentativa e democrazia diretta nel pensiero di Norberto Bobbio*, in *AIC-rivista*, 4/2015, p. 6.
- [9] Lagi, S. (2017). *La teoria democratica di Hans Kelsen: un tentativo di storicizzazione (1920-1932)*, in *Teoria politica* 7/2017, Annali VII 1giugno 2017, p. 373.
- [10] Law no. 7491, dated 29.4.1991 "On the main constitutional provisions.
- [11] Law no. 8417, dated 21.10.1998 "Constitution of the Republic of Albania" amended.
- [12] Morelli, A. (2015)., *Le trasformazioni del principio democratico in Consulta Online*, 2015 fasc.1, Estrato, 13 april 2015, p. 199.
- [13] Omari, L. (2004). *Shteti i së Drejtës*, Tiranë, Elena Gjika, 2004, p.295.
- [14] Pasquino, G., Pelizzo, R. (2006). *Parlamenti democratici*, Bologna, il Mulino, 2006, p. 15
- [15] Rotelli, E. (2005). *Forme di governo delle democrazie nascenti. 1689-1789*, Bologna, Il Mulino, 2005.
- [16] Sbailo, C. (2008). *Transizioni costituzionali nell'europa post-comunista*, 2008, p. 13.
- [17] Statute of the People's Republic of Albania, 1946.
- [18] Tafani, I., & Sina, D., (2020). The Principle of Sovereignty as the Main Principle of Democracy, between the Political Pluralism and the Electoral System in the Parliamentary Republic of Albania, in *Academic Journal of Interdisciplinary Studies*, 9(6), 184. <https://doi.org/10.36941/ajis-2020-0123>
- [19] Zakaria, F. (2003). *The Future of Freedom. Illiberal Democracy at Home and Abroad*, tr. it. *Democrazia senza libertà in America e nel resto del mondo*, Milano 2003, p. 317.