

# Freedom of Speech and Press in the Albanian Constitution of 1925

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**Abstract:** Libertà di parola e di stampa nella Costituzione albanese del 1925 -- The paper analyzes the statutory regulation of freedom of speech and the press in the 1925 Constitution, seen in a comparative perspective alongside the fundamental acts and legislation of the Albanian state, both before and after the proclamation of the Republic in 1925. This analysis is preceded by a reflection on the historical perspective of the development of the Albanian press, highlighting the key moments and the characteristics of the press in comparison with the development of the press in other countries.

**Keywords:** Freedom of speech; Freedom of the press; Preliminary censorship; Fundamental Statute; Comparative law

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## 1. Historical perspective on the development of the Albanian press<sup>1</sup>

Many press studies consider as the first Albanian press organ a small newspaper published in 1848 by Jeronim De Rada in Naples, Italy. The newspaper was published in Italian and had 27 issues until June 1849 with a 3-month periodicity.<sup>2</sup> In general, the press analysts believe that «the history of the Albanian press begins with the National Renaissance; the middle of the 19th century was the beginning of this activity». This development coincided with the emergence of daily newspapers worldwide, which marked the onset of a new era in information dissemination and democracy facilitated by industrial distribution techniques.<sup>3</sup>

In general, the analysts on the press and its history agree that the need for freedom of expression, the development of journalism and the press as the means for realizing this right are closely linked to the political, economic, social, and cultural conditions that would necessitate the existence of media

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<sup>1</sup> Lot of authors have addressed the historical development of the Albanian press: B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, Tiranë, 2005, 7-23, 43-68; H Boriçi, *Një shekull e gjysmë publicistikë shqiptare (1848-1997)*, Tiranë, 1997; L. Zelka, *Mendimi për gazetarinë shqiptare*, Tiranë, 2006, 22-36, 39-50, 53-70, 71-84, 89-95; L. Zelka, *Shtypi Shqiptar gjatë viteve të pavarësisë 1913-1939*, Tiranë, 2001, 10-26, 135-141, 149-164.

<sup>2</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, Tiranë, 2005, 7, 11-12.

<sup>3</sup> F. Balle, *Mediat dhe Shoqëritë*, Tiranë, 2011, 9.

outlets, directly influencing the shaping of public opinion on these conditions<sup>4</sup>.

Therefore, the birth of the daily press in Albania is tied to the National Renaissance. This movement also needed the press to achieve its goals. Through the press, the political, cultural, and social demands of this movement could be articulated and conveyed<sup>5</sup>.

### 1.1 Stages of press development

*The development of the press from 1848 to 1912.* This period begins with the publication of «Arbëreshit të Italisë». It continues with several periodicals, such as «Pelazgu», followed by «Zëri i Shqipërisë», a publication of the Arvanites in Greece, and the newspaper «Flamuri i Arbërit». According to Zelka, during this period, the first Albanian newspapers and magazines in the Albanian language were published, mainly outside Albania's territory. They were the newspapers «Albania» in Brussels and «Shqipëria» in Bucharest, which raised the issue of freedom of expression in the public debate<sup>6</sup>.

During this period, there is also a tendency to examine the Albanian press; thus, the study of the press emerged in tandem with the development of the press itself. Jeronim De Rada published «Principles of Aesthetics», serving as a guide for other publishers of periodicals or other publications that were often of an artistic, cultural, or linguistic nature in service of the Albanian population<sup>7</sup>.

According to Fevziu, on March 25, 1897, the second phase of the first period in the development of the Albanian press began. This phase lasts until the Declaration of Independence is signed. It is characterised by a broad geographical scope of periodical publication. Periodicals appeared in the Albanian lands, as well as in Italy, Greece, Romania, Istanbul, Egypt, Brussels, and America<sup>8</sup>.

Several problems characterize this period:

- The lack of a unified alphabet and language. After 1879, the Istanbul alphabet was used, and then the one approved by the Congress of Manastir in 1908. Sami Frashëri's principle «one sound, one letter» brought a turning point in the reality of the Albanian press.

- The publication of periodicals in many languages, where the Albanian language did not hold a prominent place, affected their circulation and distribution<sup>9</sup>.

*The development of the press from 1912-1920.* According to several studies, the Declaration of Independence found Albania without national

<sup>4</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, Tiranë, 2006, 8.

<sup>5</sup> I. Hoxha (Ed.), *Kolë Thaçi si publicist, në veprën Kolë Thaç-Shtetari poet*, a monograph published by University of Shkodra “Luigj Gurakuqi”, Shkodër, 141.

<sup>6</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, op. cit., 8; B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, Tiranë, 2005, 20-21.

<sup>7</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, op. cit., 29.

<sup>8</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 20-21.

<sup>9</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 29.

press organs of a political nature.<sup>10</sup>The press at this time became the arena of discussion regarding the problems faced by the newly created state. The newspapers primarily covered topics related to survival and the lack of culture in administrative-state functioning. For these reasons, it was the most unstable period in the development of the press. They primarily focus on political, foreign relations, and educational issues.

However, the first step towards contact with the periodical press was the expansion of technical and topographical tools. The Vlorë Government took measures to bring two printing tools to Albania, based on contracts with a businessman from Vienna and the Italian government. Two other printing tools also began the activity in Shkodër<sup>11</sup>.

The newspaper «Përlindja e Shqipërisë», published in 1913, which was published twice a week, followed the line of the Vlorë Government. Despite not being declared a government press organ, its publication coincided with the time when the Government of Vlorë had also declared the publication of such an organ, in August 1913. Many periodicals were published at this stage; gradually, the number of publications abroad decreased compared to those within the country. In Boston, for the first time, a newspaper conceived by a woman was published.<sup>12</sup> These developments are seen as the main influence of the Declaration of Independence in creating favorable political conditions for the development of the press, with a focus on publishing within the territory of Albania. Between 1912 and 1915, four publishing centers were identified, specifically in Vlorë, Durrës, Korçë and Shkodër. The latter continued to function as a center for publishing periodicals during 1915, even though the others had closed their activities earlier.<sup>13</sup>

The post-independence period is characterised by an increase in the number of press outlets, as journalists and publicists returned to their homeland, ready to contribute to the national cause through contributions to the contemporary press<sup>14</sup>. Professor Hamit Boriçi states that in the period 1913-1920, 86 newspapers and other periodicals were published, including 16 in Shkodër, but with a geographical spread throughout the territory of Albania: Vlorë, Korçë, Gjirokastër, Elbasan, Tirana, Durrës, as well as organs outside the territory of Albania, such as: the USA, Argentina, Austria and Switzerland. Mainly on the agenda of the press were the country's most pressing development issues. Between 1916 and 1918, the press reflected the effort to survive and maintain national sovereignty against the interests of foreign states. The period is characterized by an increase in the number of press organs in Shkodër. Boriçi says the main features of journalism in Shkodër were «the diversity» of the press as a type of social affiliation<sup>15</sup>.

This period is characterized by publishers' attempts to establish a relationship with the state in a manner that would guarantee freedom of speech and the press. In reality, there were several cases where newspapers

<sup>10</sup> L. Zelka, *Shtypi shqiptar, gjatë viteve të Pavarësisë 1913-1939, op. cit.*, 11.

<sup>11</sup> L. Zelka, *Shtypi shqiptar, gjatë viteve të Pavarësisë 1913-1939, op. cit.*, 12-13.

<sup>12</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005, op. cit.*, 43-49.

<sup>13</sup> L. Zelka, *Shtypi shqiptar, gjatë viteve të Pavarësisë 1913-1939, op. cit.*, 15-17.

<sup>14</sup> I. Hoxha (Ed.), *Kolë Thaçi si publicist, në veprën Kolë Thaç-Shtetari poet*, a monograph published by University of Shkodër "Luigj Gurakuqi", Shkodër, 141.

<sup>15</sup> H. Boriçi, *Një shekull e gjysmë publicistikë shqiptare (1848-1997)*, Tiranë, 1997.

were closed by court decision, and some of them were even closed without such a decision, but only by administrative order.<sup>16</sup> In an analysis of the newspaper "Populli", first published in Vlora and then in Shkodra, the Albanian press researcher Zelka documents that the newspaper was suspended from its first issue, through an order of the government authorities, on the pretext that it had not paid an amount for a guarantee, but that in the eyes of other press bodies of the time they considered it as an intervention for fear of criticism that the government did not control<sup>17</sup>.

From 1916 until the end of the First World War, the press faced increased difficulties, which made the development of the press more possible through the organs that took lives in the USA or some European countries. The end of the war brought the revival of the press organs within the country. It was Shkodra that marked the beginning of this process with the publication of the newspapers "Koha e re" and "Populli". In general, the topics of all press organs with a political nature focused on the protection of the independence and rights of the Albanian people, also due to the political events of the time<sup>18</sup>.

*The development of the press from 1921-1924.* Between 1920 and 1924, there was relative freedom of the press. A lively diatribe in the newspapers also accompanied the struggle between factions for power in Tirana.<sup>19</sup> Thus, the political situation drew the press's attention to internal problems, primarily political and educational, as well as issues related to freedom of speech and the press. However, there were also the first steps in the press on agricultural issues or a complementation and consolidation of the religious press<sup>20</sup>.

Referring to some periodicals of the time, it is understood that there has been an increase in their number, as well as efforts to improve their quality, which has turned it into a profession and strengthened the economic situation of their publishers. However, Albanian society had not yet reached the point where it considered the press a daily necessity.<sup>21</sup> However, some studies suggest that, despite these developments, the press during this period is characterized by a lack of opposition opinion, which primarily developed outside Albania's territory.

*The development of the press from 1925-1939.* At the beginning of 1925, the national press lost much of its former liveliness. While this period is characterized by the development of the press, it was also marked by a decline in the issues addressed. At the same time, this can be considered the

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<sup>16</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, Tiranë, 2006, 40-42.

<sup>17</sup> A detailed analysis of the situation can be found at: L. Zelka, *Shtypi shqiptar, gjatë viteve të Pavarësisë 1913-1939, op. cit.*, 76-77.

<sup>18</sup> Po aty, 135, 140.

<sup>19</sup> Redi Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali -Mehdi Frashëri tra "i vecchi" e "i giovani"*, Tesi di Dottorato, Università Ca' Foscari Venezia, 2013, 54.

<sup>20</sup> L. Zelka, *Shtypi shqiptar, gjatë viteve të Pavarësisë 1913-1939, op. cit.*, 151.

<sup>21</sup> Gazeta Drita, Gjirokatër, 17 Prill 1921; L. Zelka, *Mendimi për gazetarinë shqiptare, cit.*, 55-57.

era of professional journalism; journalism had already become a profession, the titles of press organs had increased, and their activities were profitable<sup>22</sup>.

Several periodicals began their journey in 1928-1929, primarily reaching Tirana, Durrës, Korça, Shkodër, and Gjirokastër. In particular, 1929 marked the rise of major names in the Albanian press, such as «Ora», «Vullneti i Popullit», «Besa», and «Përpykja Shqiptare». Meanwhile, the period from 1924 to 1939 is noted for the publication of specialized press organs; among these, the newspaper «Jurisprudence Shqiptare» appeared from 1924 to 1938<sup>23</sup>.

During the time of Zog's monarchy, from 1928 to 1939, publications increased in both quantity and quality. It is worth mentioning the sociologist Branko Merxhani, who, from 1936 to 1939, published «Përpykja shqiptare», which was distinguished by the seriousness and high cultural level of its articles<sup>24</sup>.

Books and newspapers are the first written media that have unstoppably shaped the thinking and civilisation of the modern world, from the middle of the 15th century to the end of the 19th century.<sup>25</sup> The essence of the periodicals was to foster national consciousness and critical thinking about journalism and the press. However, in specific periods, national issues took center stage, and the voice of the press was more powerful.<sup>26</sup> Due to the political circumstances and the national issues, the press had to deviate slightly from its classic informative function to perform the functions of educating society and expressing public opinion. In these conditions, the press was dominated by debates on ideological and political issues<sup>27</sup>.

In an issue of the newspaper *Hylli i Dritës* in 1934, an analysis is presented of the role of the press in shaping public opinion, the treatment of national issues, and the position of the press beyond its purely informative role.

«The daily press rules the world. No matter how strong a state is, it cannot do without it.

[...]. It is the spiritual food of the people. [...]. Since journalism is so widespread, it has all this power, which in fact comes from the public; it must respect the public, stand up for its rights, present its opinion when it is reasonable, and first protect the principles of religion and morality, of justice and honor, on which human society rests. [...].

The newspaper will serve the purpose of addressing the nation's soul. It will not stop at a few news, and gossip, feeding curiosity. To shape the

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<sup>22</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 58-59; R. Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali - Mehdi Frashëri tra "i vecchi" e "i giovani"*, op. cit., 56.

<sup>23</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 67.

<sup>24</sup> R. Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali - Mehdi Frashëri tra "i vecchi" e "i giovani"*, cit., 57.

<sup>25</sup> *Ibid*, 33.

<sup>26</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, op. cit., 19-28.

<sup>27</sup> I. Hoxha (Ed.), *Kolë Thaçi si publicist, në veprën Kolë Thaç-Shtetari poet*, a monograph published by University of Shkodra "Luigj Gurakuqi", Shkodër, 144, 151.

minds of the readers, I would say the nation must have a single purpose, and the other parts must coincide with this purpose»<sup>28</sup>.

## 1.2 Printing houses as a tool for the development of the press

The history of media begins with the development of writing techniques. The history of printing presses dates back to the 9th century, with the printing of the first book in China. However, a powerful turning point was achieved by Gutenberg, between 1430 and 1440, who was the first in Europe to produce letters sufficiently resistant to wear, thereby enabling the invention of printing with movable type<sup>29</sup>.

The mass press emerged alongside technical civilisation. Within a few years, the major dailies gained a dual monopoly over the press and public information, a practice that remained intact until the beginning of the Second World War.<sup>30</sup> Analysing the development of the press during the Republic period, it is noted that this development was accompanied by a revolution in terms of printing equipment (printing houses), which were modernised almost as much as in other Western countries, enabling the publication of periodicals.<sup>31</sup>

The development of the Albanian press must also be viewed in connection with the technological means that enabled the production of printed matter. Opinions differ regarding the first printing house in Albania. According to Fevziu, the existence of printing houses is attested in the north of the country. However, the first printing press with advanced technology dates back to 1714 at the Voskopoja Academy. Meanwhile, according to I. Hoxha, the Catholic clergy had secured a printing house, the first in Albania, known as the «Printing House of Our Lady of the Immaculate Conception», which lasted until 1944.

## 1.3 Models and Legislation on the Press

In various democratic countries, despite the existence of competition rules between press companies and newspapers, each country applies a distinct model for the press, which differs significantly from one country to another. The intervention of the authorities varies deliberately in its objective, scope, importance, and modalities<sup>32</sup>.

The English press is an example of a model based on competition; the press is not subject to any legal provisions, but instead relies on provisions that protect individual freedoms and state interests, and sets tariffs to maintain a competitive environment. France also maintains the same model,

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<sup>28</sup> P. J. Marlekaj, *Gjornalizmi mjet edukimi*, in *Hylli i Dritës*, Vj.X, Maj, no.5, Shkoder, 1934, 209.

<sup>29</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 58-59.

<sup>30</sup> F. Balle, *Mediat dhe Shoqëritë*, Tiranë, 2011, 47.

<sup>31</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 58-59.

<sup>32</sup> F. Balle, *Mediat dhe Shoqëritë*, Tiranë, 2011, 247.

with the same principles: a lack of prior authorization, and competition between information sources and outlets<sup>33</sup>.

Sweden was the first country in the world to establish freedom of the press. In the Constitution of 1766, a law on freedom of the press is provided, defining only the principle. Although it has undergone many changes, that law still preserves the original principle established at the time, namely the prohibition of any censorship. Virginia's Bill of Rights, adopted on June 12, 1776; the First Amendment to the U.S. Constitution, adopted in 1791; and the Declaration of Human and Citizen Rights further sanction the freedom of the press and guarantee that it will not be limited<sup>34</sup>.

The states of Western Countries have created various mechanisms that can control the freedom of the press, despite the sanctioning of this freedom by fundamental laws, such as constitutions. Sweden created the prototype for this in 1916: the establishment of institutions that exercise moral authority over newspapers. Press councils must protect individual and collective freedoms; however, they are not the proper instruments for the press's freedom. The Swedish model was followed by several Western countries half a century later<sup>35</sup>.

In Albania, the legislation on freedom of the press has encountered obstacles and difficulties. The Ottoman Empire, under whose influence Albania was, included freedom of the press in its constitution in 1879, a constitution that was quickly suspended, despite being a close copy of the French fundamental law. The constitution came into force after the Young Turk Revolution in 1908. Between 1910 and 1912, the relationship between the press and the government was governed by Ottoman law. Even after the Congress of Lushnja, there were attempts to regulate the press, which Zelka refers to as «temporary appendages to the Ottoman law on the press». In granting permission to publish a press organ, limitations are defined for the publisher, including having Albanian citizenship, proficiency in the Albanian language, and not having a conviction.<sup>36</sup> Despite the statutory declaration on freedom of speech and the press, censorship of the press existed in the name of government rights. On June 1, 1920, with this justification, the Albanian newspaper Besa was closed, and its director was imprisoned.

The first legal document on freedom of the press is considered the «Special Bylaw» dated August 23, 1921, which prohibits the publication of newspapers that, through their content, «cause division between different elements or disrupt the peace of the country». This act would have had temporary legal force, contingent upon the moment when the Peace Conference after World War I determined the country's borders. The bylaw was considered illegal, as this limitation should have been established through a legal act approved by parliament, rather than by an act of the government.<sup>37</sup> In April 1922, a decree-law was adopted, which had a short

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<sup>33</sup> *Ibid*, 247.

<sup>34</sup> *Ibid*, 249.

<sup>35</sup> *Ibid*, 250.

<sup>36</sup> The permission was granted on August, 30, 1920; L. Zelka, *Mendimi për gazetarinë shqiptare*, *op. cit.*, 173.

<sup>37</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, *op. cit.*, 174

lifespan. It was a document approved by the Minister of Internal Affairs and the Minister of Justice although in reality it performed the functions of a law. The act established the obligation for the publisher to have Albanian citizenship, but did not establish obligations regarding education or prior financial obligations.

## 2. Freedom of speech and press in the Albanian Constitution of 1925

The Fundamental Statute of the Republic of Albania<sup>38</sup> in Chapter III, Article 128 guarantees freedom of speech and the press. The Statute states:

«Freedom of speech and the press are guaranteed. Preventive censorship is prohibited. The confiscation of printed matter is regulated by law. Only Albanian citizens may publish newspapers according to a special law».

The content of Article 114 of the expanded Statute of Lushnja is generally preserved. The only change concerns the right to publish newspapers, a right that is again recognized for Albanian citizens, but the phrase «as per the special law» is added. This means that the constitution provides for a legal reserve regarding the regulation of freedom of the press.

It must be said that the legislator did not immediately take action to adopt a new law on the press. In January 1925, the Ministry of Internal Affairs issued a Circular to prefects and vice-prefects regarding freedom of speech<sup>39</sup>.

«We are informed that in that region, agents of the previous government and those whose personal interests have been violated are engaging in propaganda and opposing the current government, which, after today, should not continue in any way or form. Therefore, we request [...]. Additionally, advise journalists that the opposition and obstruction will cease once the new Press Law comes into force. [...] We expect unprecedented activity so that the voice of opposition and propaganda is not heard»<sup>40</sup>.

In the formal aspect, the government was careful to confirm freedom of speech and the press. The Regulation governing the functioning of the Senate provides for a special article, specifically Article 45, through which specific categories of people are granted the right to occupy special seats in the hearing room, including representatives of the press, who receive permission from the President of the Senate<sup>41</sup>.

Chronologically, the guarantees are being reduced, allowing for the imposition of administrative repressive measures; however, the regulation of

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<sup>38</sup> Statuti Themeltar i Republikës Shqiptare, Tiranë, Shtypshkroja "Nikshiqi", 1925, or Republika Shqiptare, Fletorja Zyrtare, Nr.8, e Shtunde, 7 Marc 1925.

<sup>39</sup>The circular was titled "On the measures to be taken against propagandists".

<sup>40</sup> Republika Shqiptare, Fletorja Zyrtare, Nr.2, e Hane, 26 Kallnduer 1925.

<sup>41</sup> The discussion on this subject was held during the Senate's talks at the 5th and 8th meetings.

See: Republika Shqiptare, Fletore zyrtare, E enjte 25 qershor 1925, nr.30 and Republika Shqiptare, Fletore zyrtare, e merkure, 5 gusht 1925, nr. 41.

the press was to be done by law, as stipulated in the Fundamental Statute. At the 18th meeting of the Senate in 1928, where the decree-law on the establishment of the Press Directorate at the Ministry of Foreign Affairs is discussed, the drafters reflect the duties and functions of this office, which also include: Studying internal documents and newspapers and informing state departments of news that interest them; implementing the press law and controlling all printed matter published Within the country<sup>42</sup>.

In February 1928, a decree-law was published in the official gazette, as an appendix to the law on the press, which provided for repressive measures against publishers of newspapers that posed any danger to the internal peace or foreign relations of the Republic. This decree-law gives the Council of Ministers the possibility to punish them, even by closing them for an indefinite period. Furthermore, the Government has the right to deny permission to open other newspapers for as long as it deems reasonable, as decided by the Council of Ministers.<sup>43</sup> MPs Kolë Mjeda in the Parliament's Talks at the 43rd Session says:

«It was said here that speech is free, and that is why I want to say a few words about it. Speech is indeed free, but the press during the time of the previous cabinet, I am sorry to say, was not free, and several newspapers were closed without a court decision, but only based on administrative decisions. Since they are my colleagues, since I am also a newspaperman, I wanted to defend myself. Here, a newspaper published in the capital has been administratively closed. I am not saying that a newspaper that goes beyond the boundaries of the press that goes beyond the rules of the Statute, should not be closed; on the contrary, it should be closed, and those who run it should be imprisoned. However, when they are within the law, within the statute, they should be protected by that power that has their fate in their hands»<sup>44</sup>.

Referring to this case, MP M. Kaso initially expresses his opinion on the importance of the press in the development of a country and assesses that “a state cannot progress if the press is not free, that the abuses of the Government can only be exposed through the press”. Therefore, he recommends that the Government implement the law and act within the limits it sets. He states that:

«(...) The newspaper was closed completely outside the law, not as the law states, because the current press law gives the Government the right to temporarily close a newspaper only when there is an accusation before the court. Until then, the closure can continue, but here a decision has been made that the newspaper is closed for life, and here has been violated not only the press law, but also the Statute»<sup>45</sup>.

Continuing the discussion of MP M. Kaso, it is evident that journalism has now become a profession, and journalists now have it as a means of livelihood. He says:

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<sup>42</sup> Republika Shqiptare, Fletorja zyrtare, Tiranë, e Prende 3 Fruer 1928, n. 18.

<sup>43</sup> Republika Shqiptare, Fletorja zyrtare, Tiranë, e Merkure 15 Fruer 1928, n. 24.

<sup>44</sup> Republika Shqiptare, Fletorja Zyrtare, Tiranë 23 Tetuer 1925, n. 59.

<sup>45</sup> Republika Shqiptare, Fletorja Zyrtare, Tiranë 25 Tetuer 1925, n. 60.

«Mr. Dilo kept the newspaper as a means of protecting his family, but his notebook was administratively closed for life, and all his sources of livelihood were cut off. He was condemned to die for bread, and even his notebooks were confiscated»<sup>46</sup>.

The debate among MPs concerns the closure of the Tirana newspaper, where Mr. Poga, in his capacity as Deputy Minister of Interior, states that he has addressed several complaints and articles that constituted damage to the state and its dignity. He addresses the MPs as follows:

« (...) Mr. Dilo has spoken for months and has left nothing unsaid against the Albanian language. The case has been submitted to trial, and, in mercy, he has been declared innocent; they have only taken administrative measures, deciding to close the newspaper»<sup>47</sup>.

Periodicals during the republican era were subject to an authoritarian regime, so they were not free to express themselves on political issues, despite Article 128 of the Republic's statute which in principle, guarantees freedom of speech and the press<sup>48</sup>.

In a decision of the court on political crimes, the opinion is clearly expressed that the fugitives after the suppression of the June Revolution, despite the pardon, did not return to Albania, but created a society outside of Albania «Bashkimi Kombëtar» and with the aim «to destroy the peace and change the form of the Regime established by the National Assembly, through the Press and other means they propagated against the Regime, the Statute, of His Excellency the President of the Republic»<sup>49</sup>.

The punishment of journalists was carried out under other laws, such as the «punitive laws for political offenses» Parliament adopted several legal amendments, but Article 9 always provided almost the same:

«Any person who secretly prints in Albania or brings from abroad letters, periodicals, newspapers, books, or brochures with the above-mentioned propaganda as their purpose is punished with the same penalties as those in the category of propaganda to which they belong, and all propaganda tools are confiscated»<sup>50</sup>.

No one dared to criticize the president in the periodicals published in Albania. During this period, diaspora newspapers addressed criticism and polemics. In a Special Trial for political crimes against Doctor Omer Nishani, who resided in Switzerland, the court bases its decision on his opinions and writings published in the newspaper «Liria Kombëtare», through which he advocates against the regime and the President of the Republic<sup>51</sup>.

At the meeting of April 3, 1926, a new law on the press was discussed in parliament, and its draft was presented. In the explanatory report, we also find an analysis of the position the government of the time held on freedom of speech and the press.

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<sup>46</sup> *Ibid.*

<sup>47</sup> Republika Shqiptare, Fletorja Zyrtare, Tiranë, e Diele 25 Tetuer 1925, n. 60.

<sup>48</sup> R.Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali -Mehdi Frashëri tra "i vecchi" e "i giovani", op. cit., 56.*

<sup>49</sup> Republika Shqiptare, Fletorja Zyrtare, Tiranë, E Ejte 29 Prill 1926, nr. 76.

<sup>50</sup> Republika Shqiptare, Fletorja zyrtare, Tiranë, e Hane 8 Fruer 1926, nr.31.

<sup>51</sup> Republika Shqiptare, Fletorja zyrtare, Tiranë, E Shtunde 14 Gusht, nr.133.

The press was conceived as a separate power (what we today call the fourth power), which the civilized world was using as a tool to progress. On the other hand, the government recognized that, beyond the positive role it would play in the development of society and the nation, the press could also pose a danger to the nation if its freedom were misused.<sup>52</sup> The report highlights the necessity of adopting a law on the press, since this activity was currently regulated by a Turkish press law, it was deemed completely meaningless by the drafters of the law, as the Turkish state itself had considered it outdated and had been attempting to draft a new law since 1919. Moreover, this law did not adapt to Albania's political, social, and economic situation. As a result, it encouraged anarchy in the press and often served as a weapon to harm the National Renaissance<sup>53</sup>.

The draft law contained six chapters, which regulated various aspects of the press's activity, which can be summarized as follows: The first chapter defines how publishing activity can be carried out. It was an innovation that the law also defined certain criteria for the education and qualification of press directors, with the reasoning that an activity that could both support and harm national interests could not be left in the hands of unqualified persons. It also establishes the obligation to pay a financial guarantee, thus viewing publishing activity as a genuine economic activity. The project in this chapter imposes several restrictions on the management activities of press organs, prohibiting senators, deputies, and civil servants from serving as responsible directors of political publications, as parliamentary immunity could be misused. In the second chapter, several punitive provisions are included for persons who violate the provisions of this law (if it were to be approved). The punitive measures vary according to the degree of law violation and the damage (moral or material) it causes. In the third chapter, defamation and slander, a widespread phenomenon, are regulated to reduce them and prevent damage to anyone's honor. In the fourth chapter, the methodology for tracking press crimes and the measures that can be taken in the event of the mobilisation of military forces are determined. In the fifth chapter, it is stipulated that a court of law must examine press crimes. Additionally, the MPs are informed that there have been changes to the provisions of civil procedure, aimed at accelerating the judicial process in these cases. In the sixth chapter, the provisions determine the fate of notebooks in cases where a state of emergency may be declared.

### 3. Comparative approach on the legal aspects of freedom of speech and the press

For the comparative approach with the Albanian Statute of 1925, we used the fundamental acts of the Albanian State between 1914 and 1939.

The period from 1924 to 1939 is considered by press analysts to be a time of positive developments, but they also emphasise that it was during

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<sup>52</sup> Republika Shqiptare, Fletorja zyrtare, Tiranë, E Shtunde 3 Prill 1926, nr.58.

<sup>53</sup> *Ibid.*

this era that censorship emerged. According to Fevziu, the censorship imposed intensified and became absolute by 1990<sup>54</sup>.

Since 1922, all Albanian Statutes have provided for freedom of the press and speech as a right through a provision of a declarative nature. Furthermore, these fundamental acts of the Albanian state also provided for restrictions that could be imposed in the event of abuse of this freedom, such as preventive censorship or confiscation of printed matter. Regarding these restrictions, all statutes maintained the legal reserve, providing for the adoption of a special law on the press<sup>55</sup>.

### 3.1 Organic Statute of Albania

Article 36 of the Statute provides for the right of every person to express his or her opinions in various forms, orally, in writing and through the press, under the laws. The Statute provides for the obligation of the legislator to adopt a special law, through which the modalities of the exercise of this freedom are determined<sup>56</sup>.

### 3.2 Extended Statute of Lushnja<sup>57</sup>

The draft of the Extended Statute of Lushnja provides for freedom of speech and the press in Article 20. The state guarantees this freedom. However, the article in question also determined that which information and news, or as the word «voice» was used in the draft, could not be published, including military movements or Works of state fortification.<sup>58</sup> Publishers of newspapers could only be Albanian citizens<sup>59</sup>.

In ideological terms, the drafters of this article had taken into account the deterrent effect of the legal provision, stating that this limitation would be made possible through the deterrent that would be brought about by the provision of sanctions «with intimidation and criminal punishment». The draft provided for the legal reserve regarding cases of abuse of freedom of speech, and the press. The draft gives attention to censorship and expressly prohibits the use of censorship, any other measure of a preventive nature and the seizure of printed materials before or after publication, but also foresees restrictions related to the «publication of obscene materials».

The draft provided detailed procedures for seizing materials in the cases mentioned above. Specifically, within 24 hours of the sequestration, the prosecutor had to present the case to the judicial council, which would assess whether or not the sequestration should be maintained; otherwise, the sequestration would be terminated (lifted) automatically. The right to appeal

<sup>54</sup> B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, op. cit., 68.

<sup>55</sup> L. Zelka, *Mendimi për gazetarinë shqiptare*, op. cit., 172.

<sup>56</sup> Statuti Organik i Shqipërisë, *adopted in Vlora, in 10 prill 1914*.

<sup>57</sup> Zgjanimi i Statutit të Lushnjës, Tiranë 1922, Shtypshkroja “Nikaj”.

<sup>58</sup> F. Rrumbullaku (cur.), *Debat parlamentar para një shekulli ... (Shqipëria – Monarki apo Republikë? Shtet mysliman apo pa fe zyrtare? Pushtetet dhe raporti mes tyre, drejtësia dhe pavarësia e saj, përgjegjësia para ligjit – në debatin kushtetues të vitit 1922 të baballarëve të kombit.)*, Tiranë, 2008, 249.

<sup>59</sup> *Ibid*, 250.

this decision was recognized only to the publisher and not to the prosecutor. In the case of prohibited publications, the draft held both the publisher and the author accountable for legal responsibility. They were not only liable under the relevant law to be passed, but also had civil liability and the obligation to pay compensation to the injured person jointly and severally<sup>60</sup>.

This point ignited the parliamentary debate. On the one hand, we have the drafters who thought it was necessary to provide, in principle and detail, the procedure for compensation. According to Mr. Tasi (one of the drafters), this provision is related to the argument that in the Statute, “we set the principle on which that law should be based”. The aim was to prevent Parliament from drafting a law on the press in the future that would impose censorship on free speech. MPs Mehdi Frashëri demanded that «the basis be determined and the legislator be forced to take it into account, and not leave it hanging like that».<sup>61</sup> Mr. Frashëri refers to other countries, such as Great Britain (he calls it «England», which has a parliamentary tradition, where the parliament has nevertheless passed laws that contradict statutes and oppose other political forces. For these reasons, European countries have taken steps to prevent parliamentary actions that may contradict the respective statutes.<sup>62</sup> MPs Luigj Gurakuqi requested that the provision in question be preserved since the Statute, as a fundamental law, sets the principle (freedom of the press is guaranteed) and repressive measures that would violate this freedom, such as censorship, preventive measures or seizure, are prohibited. This provision will serve as the basis on which the legislator should rely when drafting the law.<sup>63</sup>

Meanwhile, a group of deputies requested a more general provision, of a declaratory nature, since the provisions on the amount of compensation or the procedure for seizing published materials are of the nature of provisions in a law. They were not against the prohibition of censorship, but they thought that the declaration in the statute that “freedom of the press is guaranteed” was sufficient. According to MPs Babameto, this meant that censorship was only imposed when a state of emergency was declared.<sup>64</sup> MPs Bahri Omari, supporting the arguments of the drafters of the draft for the need to define the basic principles on which the drafting of a law on the press would be based, emphasises that the article is confusing in its content and should be drafted more clearly and in a manner appropriate for a statute<sup>65</sup>.

Finally, the article was drafted as follows:

«Freedom of speech and the press is guaranteed. Preventive censorship is prohibited. Confiscation is regulated by law. Only Albanian citizens may publish newspapers»

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<sup>60</sup> *Ibid*, 249-250.

<sup>61</sup> *Ibid*, 250.

<sup>62</sup> *Ibid*, 251.

<sup>63</sup> *Ibid*.

<sup>64</sup> F. Rrumbullaku (cur.), *Debat parlamentar para një shekulli ... (Shqipëria – Monarki apo Republikë? Shtet mysliman apo pa fe zyrtare? Pushtetet dhe raporti mes tyre, drejtësia dhe pavarësia e saj, përgjegjësia para ligjit – në debatin kushtetues të vitit 1922 të baballarëve të kombit.)*, Tiranë, 2008, 250.

<sup>65</sup> *Ibid*, 252.

On 9 December 1922, the National Council (Parliament) reinstated the previous Ottoman law, repealing the Press Decree approved on 5 April 1922<sup>66</sup>.

### 3.3 Fundamental Statute of the Albanian Kingdom

Through Art. 197, included in Chapter 6 of the Statute, dedicated to the rights of citizens, the same statutory guarantee is given as in the time of the Republic of 1925, for freedom of speech and the press. The difference between the Constitution of 1925 and earlier versions is related to the fact that the concept of limiting this freedom is elaborated in more detail. The Statute of the Monarchy provides for cases in which the principle of «preventive censorship» prohibition may not be applied; specifically, in times of War, mobilization, and other exceptional cases foreseen by law.

According to the Statute, the law would determine the conditions under which press regulation is based, but not only that. The special law would also provide for legal liability for the press's faults, as well as the procedure for confiscating printed matter. The right to publish newspapers in Albania was reserved exclusively for Albanian citizens.

Meanwhile, a new draft law was drafted in 1930, which was subject to some criticism. The main criticism was related to a provision that enabled the government to order the closure of a press organ by an administrative act. In its articles, *Gazeta «Arbëria»* considered this an attack against the press.<sup>67</sup> In fact, after the adoption of the Law on the Press, «*Gazeta Arbëria*» by Nebil Çika was closed by the authorities due to a writing by Narsis Vana, pseudonym of Vangjel Koça, which harshly criticised the parliament's decision. Koça's article was titled «*Ave parlament, morituri te salutant*»<sup>68</sup>.

On January 24, 1931, the King decreed the Law on the Press, consisting of 67 articles, grouped into 9 chapters Which regulate: the conditions that must be met for publication; criminal liability if the law is violated; cases of slander and defamation; on the offenses of the press and the rules for judging the offenses of the press; the sale of notebooks and magazines published outside the territory of Albania; the functioning of the press in times of emergency and censorship. As we mentioned above some articles noted real obstacles to the progress of the press: the editors in charge of the periodicals had to be graduates with three years of experience or diploma holders with five years of experience. Furthermore, they were required to deposit a sum equal to 10,000 gold francs as a deposit in order to publish a newspaper.

In reality, the rules of the new decree on the press were not applied strictly. The censorship was more stringent towards periodicals and magazines entering Albania, even if it was not always possible to prevent the entry of such publications.

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<sup>66</sup> Shteti Shqiptar, Fletorja Zyrtare, e Diele 24 Dhetuer 1922, n. 58.

<sup>67</sup> Mbretëria Shqiptare, Fletorja Zyrtare, Tiranë, e Shtunde 31 Kallnduer 1931, n. 8.

<sup>68</sup> R. Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali -Mehdi Frashëri tra "i vecchi" e "i giovani", op. cit.*, 59.

In any case, it must be considered that Zog's regime was not always the same. Depending on his strategic and political needs, the king was willing to change his attitude towards the press. There were times when he did not accept any discussion and others when he allowed greater freedom of expression<sup>69</sup>.

#### 3.4 The Fundamental Statute of the Kingdom of Albania<sup>70</sup> (Rome, June 3, 1939)

Chapter VI outlines the «Rights and Duties of Citizens», including freedom of the press, as stipulated in Article 51. There is a legal reservation aimed at preventing the abuse of freedom of the press.

#### 3.5 An overview of the legislation on freedom of the press after the Second World War

Following the Second World War, the Albanian state enacted two fundamental acts: the Constitution adopted in July 1950<sup>71</sup> and the Constitution adopted in December 1976<sup>72</sup>. Both of these acts provided for freedom of speech and the press. However, according to the 1976 Constitution, a reconciliation between the interests of the individual and those of socialist society is required, giving priority to the general interest (Article 39). In this perspective, should also be analyzed the Article 53, which provides for the guarantee of «freedom of speech and the press».

#### 3.6. An overview of the legislation on freedom of the press after the Second World War

The main Constitutional provisions of 1991 recognize the fundamental human rights and freedoms of national minorities, as recognized in international documents, without specifying the nature of these rights<sup>73</sup>. With the amendments implemented in 1993, there was a step forward regarding the protection of freedom of expression<sup>74</sup>.

The constitution now provides for the guarantee of freedom of expression and prohibits preliminary censorship. In principle, it indicates the limits of freedom of speech, including all forms of communication. Restrictions are lawful only when they are in the best interest of the child or necessary for the protection of others' lives. The form through which opinions are expressed also enjoys constitutional protection, including speech, writing and any other means of disseminating opinions.

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<sup>69</sup> R. Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali -Mehdi Frashëri tra "i vecchi" e "i giovani", op. cit.*, 60.

<sup>70</sup> The Fundamental Statute of the Kingdom of Albania, Rome, June 3, 1939.

<sup>71</sup> Kushtetuta e Republikës Popullore të Shqipërisë, Tiranë, 5 Korrik 1950.

<sup>72</sup> Kushtetuta e Republikës Popullore Socialiste e Shqipërisë, Ligji Nr.5506, datë 28.12.1976.

<sup>73</sup> Ligji 7491, datë 29.04.1991 “Për dispozitat kryesore kushtetuese”.

<sup>74</sup> Ligji Nr.7692, datë 31.3.1993.

The 1998 Constitution, in Article 22, guarantees freedom of expression, as well as the means through which it is exercised, such as the press, radio, and television. It prohibits preliminary censorship of these means.

There is no law on the press. Albania has adopted a model where the press operates as a form of economic activity. Even in other countries around the world, a general trend is visible today in the USA, Europe, and Japan, to have fewer rules and more competition when it comes to regulating the legal framework for realizing freedom of expression, including the press.<sup>75</sup>

### 3.7 Conclusions

The period of the Republic is considered a period of political stability, which was also reflected in the development of the press. Although there is a decline in national themes, this period is characterized by an increase in quality and quantity as the political situation stabilized.<sup>76</sup> After Zog's return to power, the press was characterized by "limited freedom" and the imposition of censorship. Journalism was developed on democratic principles, but the influence of the press on public opinion was limited for several reasons, including the lack of courageous motives and censorship that was now carried out by a special structure under the Ministry of Education.

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<sup>75</sup> I. Baraku, *E drejta për informim- Kuadri ligjor dhe çështje të praktikës*, Tiranë, 2020, 23.

<sup>76</sup> See: R. Halimi, *Il dibattito intellettuale e politico in Albania tra le due guerre mondiali - Mehdi Frashëri tra "i vecchi" e "i giovani"*, *op. cit.*, 56; B. Fevziu, *Histori e shtypit shqiptar 1848-2005*, *op. cit.*, 58-59.