

CULTURAL DIVERSITY, CIVIL RIGHTS, AND THE STATUS OF FOREIGNERS IN SOME EUROPEAN UNION COUNTRIES

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Abstract

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The aim of the topic is the scientific and analytical treatment of European Union (EU) legal documents and their harmonization in the field of civil rights. This research article explains the cultural diversity in EU countries and the difficulties that court decisions have in dealing with individuals' cases coming from countries outside the EU. As an example, we took the orders of the courts of the EU countries (Pacula, 2020) with special emphasis on Spanish and Moroccan citizens living in Spain (Mehdi, 2008), their problems with the law in force, and with respect to international standards. Our findings show that emigration to EU countries of citizens from countries outside the EU, among other things, also shows the existence of cultural differentiation. Whereas diversity is about the different cultural unification of the individual, it has a reluctance to accept these differentiations. Regarding mass immigration to EU countries, the guarantee and provision of basic rights and freedoms must be done through the harmonization of legal norms that are also related to the needs of multinational corporations for the workforce. The recognition and acceptance of the external judicial decision would also make possible the factual and legal acceptance of the existence of cultural diversity.

Keywords: Civil Rights, Divorce, Cultural Diversity, Comparative Law, International Law, EU, Positive Law, Corporate Charter, By-Laws, Insider Dealing

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1. INTRODUCTION

Diversity as a concept is very new, but what facilitates the understanding of diversity is discrimination. Discrimination is preceded by negative phenomena such as stereotypes and prejudices that lead to discrimination against the origin or disability of the individual. In the spirit of this definition is also cultural diversity which is not limited to one aspect of the life of social groups. Cultural diversity cannot be separated from the concept of human rights and freedoms. Diversity is about the approach-unification of different

concepts of the individual, his/her life characteristics, and appreciation and acceptance of the differences between them. Culture and tradition as part of social and individual life transcend boundaries of racial, ethnic, national, religious, etc. (DiPietro Law Group, PLLC, 2019). This relates to equality as an idea and ideal, where everyone has the right to express their thoughts, abilities, and beliefs without any consequences. The rejection of the diversity and peculiarities of others often leads us to think negatively about the individual. The stereotype creates different prejudices towards a social grouping, due to the lack of fair evaluation and

analysis of that group. Examples of negative stereotypes are uneducated social groups (Roma, etc.) or individuals with disabilities, or employees of special state bodies (e.g., police). In terms of international law, cultural diversity refers to aspects of expression and the presence of cultures in social groups within and between them (United Nations Educational, Scientific and Cultural Organization [UNESCO], 2001). Among the questions that arise regarding basic human rights are the rights of immigrants as a minority. In principle, states must recognize and protect all the fundamental rights set out in international instruments, regardless of whether they have immigrant or minority status. The Declaration of Minority Rights is the basic document set out in the resolution and preamble of the declaration based on the Convention on Civil and Political Rights (United Nations, 1992). Within the integration processes in Europe, human rights occupy an important place.

In the framework of this research, it results that the emigration to the EU countries of citizens from countries outside the EU, in addition to others, also has problems related to the existence of cultural differences, which we emphasized during the paper. The need of corporations and businesses for a workforce is also contributing to emigration as a process. The provision of better working conditions on their part has encouraged the growth of immigration. Corporations and businesses have created space for new jobs where the opportunity has been opened for the economy to develop, which is very attractive for immigrants. This has forced the states to draw up laws for corporations and reliefs for these businesses, such as the case of the German state, which, although it is in the Schengen Area, has made the greatest reliefs than other European states to accept labor from other countries, especially those outside the EU. As a result, corporations operate by statutes and other by-laws based on applicable laws. While in the Balkan region, laws have been approved that make multinational corporations attractive in order to invest and reduce the flow of immigration to EU countries. As examples, we take Law No. 06/L-105 on Corporate Income Tax of the Republic of Kosovo, and the legal framework of corporate governance in Albania. In addition to the increase in emigration, countries also face other situations which have caused new challenges. Cultural diversity is still reluctant to be accepted as an integral and necessary part of our social life, but it is inevitable to make a compromise to live in peace and create problems that would exceed any social limit. Despite numerous efforts to find and analyze the cases more deeply, however, this was almost impossible due to legal restrictions, especially in divorce cases. In the paper, we have mentioned that we have no further knowledge of the judicial procedure in the case of the Moroccan citizen, we also have no knowledge about the effect of this decision of the Spanish court on the regulation of the status of the spouses, as well as the fact that the Minas Court has reached or not to be found for the decision of the Spanish court to create a legal effect on the parties. In conservative countries, tradition prevails over the law, and this in the religious aspect also requires the consent of the spouse, in this aspect, we can conclude that there is a lack of knowledge, documents, or even court decisions. The purpose of this paper is to

analyze the advantages that cultural diversity has in accepting the social reality where technological developments have brought humanity even closer in terms of the speed of information as part of the dynamics of life, but at the same time also the obligations of international organizations in accepting people with different cultures and traditions. The purpose of the authors is to show that human life is more valuable than legal restrictions which are imposed as a result of differences of mentality and superiority.

The research questions posed in this paper are:

RQ1: How much would the harmonization of legal norms by the state institutions of the EU countries affect the field of human rights?

RQ2: What are the challenges of countries that aspire to integrate into the EU regarding the acceptance of EU law, when considering the emigration of citizens from outside the EU countries?

RQ3: What is the degree of integration of different social groups in EU states, that is, what is the activity of state institutions for the integration of these immigrants?

The importance of this research lies in the timely need to accept these differences and incorporate them into legislation. The acceptance of these various cultural differences as the only goal has life, mutual respect, and social tolerance protected by legal norms. The concept of this work is based on the ideas, general social principles, and legislations of the respective states as well as the cases of judicial decisions of the courts, creating an advantage in the advancement of civil rights. The paper is built on theoretical concepts related to the understanding of the concepts of human rights and cultural diversity. This theoretical definition continues in two phases: unification and approximation of legislations and their implementation through judicial decisions and the recognition of these decisions by the respective states. The construction of these principles in the 21st century is also the foundation of the understanding of this study with the conviction that it contributes to the expansion and continuation of research with the aim of influencing decision-making institutions.

The structure of this paper is as follows. Section 1 is an introduction that contains the reasons for the background of this paper. Section 2 reviews the relevant literature. Section 3 analyzes the methodology used in conducting the research. Section 4 contains the research results. Section 5 contains the conclusion.

2. LITERATURE REVIEW

The influence of European law, among other things, is emphasized in the post-conflict countries of the Western Balkans. More precisely, as an example in this paper, we take Kosovo, which is undergoing a political and economic transition since the end of the 1999 war. International civil administrations (the United Nations Interim Administration Mission in Kosovo, UNMIK, and the European Union Rule of Law Mission in Kosovo, EULEX) were the main collaborators of Kosovo's institutions in the drafting of legislation and its practical implementation, as well as in guaranteeing the fundamental rights and freedoms of non-majority communities. Their integration has begun and has expanded from the local level to guaranteeing seats in the Kosovo

parliament. Likewise, the integration of non-majority communities and their culture from being the official language in use in Kosovo to the institutional mechanisms at the ministerial level are being implemented (“Votohet pro Gjuhës Rome të njihet si gjuhë në përdorim zyrtar në Kuvendin e Prizrenit”, 2022). Also, in another aspect of the integration of non-majority communities, Kosovo has drawn up its strategies for their full integration into the education system in Kosovo, however, according to the reports of the EU, it still remains a challenge for the institutions of Kosovo until their full integration.

In the legislative and institutional aspects, the Office for Community Affairs also functions within the Government of Kosovo. The Office is responsible for drafting and implementing legislation and strategies for the rights of non-majority communities. In order to advance and protect the non-majority communities, apart from the constitution, there are also a number of laws. It is worth mentioning Law No.03/1-047 for the Protection and Promotion of the Rights of Communities and their Members in the Republic of Kosovo, Law No.05/1-021 on Protection from Discrimination, Law No.03/1-068 on Education in the Municipalities of the Republic of Kosovo, Law No.02/1-37 on the Use of Languages, Law No.03/1-040 on Local Self-Government, Law No.02/1-88 for Cultural Heritage, etc. (Prime Minister’s Office, n.d.).

The International Covenant on Economic, Social and Cultural Rights sanctioned the principle of non-discrimination by obliging states’ parties to the Convention to ensure the rights set forth in this international document and to exercise them without discrimination. In this regard, General Comment No. 14 of the Commission for Economic, Social and Cultural Rights on the right to raise the health standard states that all health facilities, goods, and services should be provided and distributed to all categories of the population, especially for vulnerable or marginalized groups, especially ethnic minorities. States have an obligation to ensure the rights to provide preventive, curative and palliative health services, including to national minorities (Committee on Economic Social and Cultural Rights [CESCR], 2000). The protection and guarantee of fundamental human rights and freedoms are inseparable from the protection of all migrant workers and members of their families. Considering the increase in marriages between citizens who are foreign nationals, there is a gap in the legal field regarding cultural differences (Uhlich et al., 2021). The protection of fundamental rights means the exclusion of any restriction due to the origin of any individual migrant or his/her family. In the spirit of fundamental rights is also the protection of the cultural identity of migrant workers and their families including the maintenance of cultural ties with the country of origin (United Nations, 1990).

The concept of international law in general and the aim of harmonization but also of the application of legal norms in the positive law of the EU member states means used by the system of private international law by the EU member states are the main goal to assess, establish, and harmonize legal provisions in order to unify multicultural values in the EU. In this respect, it is worth mentioning Council Regulation No. 1259/2010 dated

20 December 2010, which has been widely applied in divorce proceedings, especially for immigrants coming from Muslim-majority countries. According to some authors, this promotes cultural security for Muslim immigrants (Yeasmin & Tkach, 2022).

Within the EU countries, this regulation plays an important role because of marriages between people with different citizenship. As an example of the interpretation and application of this regulation, we can take the decision of the European Court of Justice in case C-249/19. In the request for divorce addressed by two Romanian citizens to the Court of First Instance in Iasi, Romania, which had jurisdiction general on this divorce procedure but rejected its jurisdiction according to Regulation No. 1259/2010 of the EU, this court designated the Italian legislation as competent for this procedure because at the time of the initiation of this procedure, the parties had a residence in Italy (Judgment of the Court (First Chamber) of 16 July 2020, 2020). Regulation No.1259/2010, namely Article 10, regulates the cases where the possibility of divorce is excluded from the legislation of citizens. In this case, according to the decision of the regional court of București, which in this case instructs the divorce procedure to continue as a matter in the Italian courts, because even according to Italian legislation, divorce is foreseen between other foreign citizens. In fact, according to the legal opinion of lawyer Tanchev, who rightly requests that Article 10 of Council Regulation No. 1259/2010 be interpreted more rigorously in order not to contradict Articles 5 and 8 of this regulation, which foresee the procedure of divorce for foreign citizens (Pacula, 2020). Another case is that of the complaint of one of the wives addressed to the Court of Cassation in France. In its response, the Court of Cassation, Chamber of Appeal to Complaint No.20-21.542 this Court referred to Articles 455 and 700 of the Code of Civil Procedure. The court by decision has overturned the previous judgment of the court of first instance. This part of the act deals with the division of the common property of the spouses. This concerns the spouses who have agreed that for the part of their property in France, the competence to decide will be the French court according to the territorial competence. In this case, the parties have chosen the competent French court to decide on the division of property, but not on the dissolution of the marriage. In its decision, the court referred to Article 5 of Council Regulation No. 1259/2010 of 20 December 2010. The court of first instance violated Article 5 of this regulation, assessing that the parties were not informed in advance of the essential rules that apply in divorce proceedings (Ruling of the First Civil Chamber of 26 January 2022, Appeal No. 20-21.542, 2022).

The presence of third-country nationals has increased the need to reform the norms of private international law regarding the regulation of personal and family relations of foreigners residing in EU countries, under the law of that country, which accelerates the resolution of issues that are obstacles to the implementation of foreign rules that are considered incompatible with public policy. EU member states have legal problems regarding the application of the Civil Codes in relation to third-country nationals, especially in marital disputes. Examples are France and Belgium, especially Spain in the spirit of this paper, another example we will take

is that of Spain, a member country of the EU, and its legislation from a comparative perspective with the legal system of Morocco. We are presenting these two legislations both in terms of content and in terms of comparison. Spain, in order to give priority to the law of the country in marital disputes between parties with foreign citizenship has amended its Civil Code (Article 107), through the approval of the basic law (de la Rosa, 2015). Usually, family law is related to the cultural environment. Given the multicultural environment of the EU, the harmonization of legal provisions for the family is a necessity for the concrete specification of the rules of specific family law issues. The German Civil Code does not require a minimum period of marriage in cases of divorce and the initiation of divorce proceedings. The right to file for divorce is a right that does not restrict any party except that it is otherwise governed by the State of Malta (German Federal Ministry of Justice, 2002).

Spanish law, in comparative terms, differs from the laws of other states which have a different religious culture and tradition compared to Spanish law which is influenced by Christian values through the application of the system of secularism. Similarly, Moroccan law is more Sharia-based, creating confusion in family law relationships, especially in marital disputes when it is known that the presence of immigrants in the EU, especially Moroccans in Spain, is significant (Mehdi, 2008). Family law in Spain, until the death of former Spanish leader Franco, was conservative and influenced by the Christian concept. The first legal reform towards the secular concept began in 1981 to be completed in 2005 (de la Rosa, 2006). The Family Code of Morocco (Moudawana) of 1957 has been amended twice: in 1993 and 2004, which is based on Sharia and adheres to the Maliki law school. The source of resolving marital disputes according to *fiqh* (Islamic jurisprudence) is the Maliki law school. The new Family Code of 3 February 2004, replaced Moudawana. Under Moroccan law, marriage is a civil contract that is valid for all Moroccans, regardless of their nationality, refugees and stateless persons (under the Geneva Convention of 28 July 1951 in relation to refugee status), if both the parties are Moroccan, or one party is Moroccan, or if one of the parties is Muslim. The exception is Moroccan Jews who are governed by the provisions of Jewish Moroccans (Moroccan Family Code, 2004). Marriage according to the Moroccan Family Code is a legal contract where the husband and wife agree to live together with the common goal, the creation of the family. As in the codes, other family laws in the world, the Moroccan Family Code provides for the conditions for marriage: the legal capacity of both spouses to marry; the sole purpose of entering into marriage; a marriage teacher is required; hearing and notarized statement by two notaries public for the offer and acceptance announced by both spouses; and lack of any legal impediment (Moroccan Family Code, 2004).

Spanish author Marie-Claire Foblets emphasizes that the "reformed" Moudawana does not violate the Islamic tradition of the Moroccan family. Changes in Moroccan family law have led the legislature to place spouses on an equal footing in terms of marriage, relationships with children, and cases of divorce. From the aspect of polygamy, Moudawa has limited in number the possibility of male marriages

but at the same time the analysis and ascertainment of the court if the person, the male, who wants to get married newly has financial possibilities, etc. to treat spouses equally. Another right given to a Moroccan woman is the possibility of divorce in case she does not agree with the marriage contract for her husband to marry another woman. Therefore, before the decision is ratified by the court, the parties must reach a preliminary out-of-court agreement (Foblets, 2008). Unlike Moudawa, e.g., the Spanish Civil Code of 1889 legally defined a woman's relationship with her husband as relations where the husband must protect his wife and she must obey her husband as described in Article 57, the wife must follow her husband wherever he decides to live (Article 58) and the husband is the representative of his wife (Article 60). Women were discriminated against in family law only because they were women, especially widows and unmarried women. Moreover, in Spain, until 1958 women could not be teachers of their children, while after 1958 they could become teachers with the permission of their husbands. This restriction also applied to the right of women to work and, until 1961, women were deprived of political and social rights (Ministry of Justice, 2013). Several cases of clash of legal systems regarding migrants in Spain and divorce have already been reported in the Spanish press, including migrant Muslim women living in Spain. As an example, we will mention a Moroccan woman who turned to a Spanish civil court to get a divorce from her Moroccan husband in 2003. Her husband refused referring to Moudawana. The Moroccan woman chose the possibility of a divorce under the Spanish Civil Code with reference to Articles 107 and 9, 3 (discrimination). Her case was heard by a Spanish civil court. The woman won her case in January 2006 after a long legal time (Rosander, 2009).

For example, the case of Mina. Mina is this Moroccan woman. Over time, their relationship as husband and wife deteriorated as a result of violence against Mina. In August 2005, the brothers decided to go to Morocco for their vacation while Muhammad stayed in Spain. Mina returned with her brothers to Casablanca for vacation. As soon as she returned home, she told her parents that she refused to go back to her husband, who had beaten her several times, including psychological violence, and even once tried to kill her. Her parents did not force her to return to such a man but wanted her to return to Spain to work. Despite the domestic violence, Mina's problem lay in the fact that she could not explain the reason for the bodily injuries from her husband, as she did not know Spanish (Organic Law 1/2004, of December 28, on Protection Measures Comprehensive against Gender Violence, 2004). Mina definitely refused to go to her husband Muhammad because Muhammad exercised physical and psychological violence against Mina. A Moroccan divorce was difficult to achieve, according to parental considerations in 2005. The husband would never accept his wife leaving him, they thought. In practical life, judges often heard male versions of divorce cases, despite Moroccan family law reforms. On the other hand, even this was a kind of danger that would jeopardize the lives of Mina's parents. The new Spanish law on gender-based violence allows victims of gender-based violence to document and receive material assistance on their behalf. In such emotional situations, Mina filed two lawsuits in

court; a civil lawsuit for divorce and a criminal lawsuit against an ex-spouse. The judge ruled that Mina could not present any medical evidence of her husband's physical abuse after she had reported the case to the police after three months and the presentation of evidence in court three months later, the Spanish court considered it delayed. Mina's husband had been threatening his ex-wife all this time. Due to the delay in denouncing the case, the Spanish court considered delaying the need to make a decision on a police protection order. Nor would Mina's case be treated as such requiring an extremely swift legal proceeding. As a result, the judge ordered the man to follow a preliminary court procedure in order to obtain the husband's version of what had happened before Mina left him. In December 2006, Mina decided to sign divorce papers according to the Spanish Civil Code procedure. She had not done so before because she thought the trial in the criminal court would take place first. But since her case was not considered to pose an immediate threat to her physical well-being, it was postponed after the divorce was accepted — if Mina until then really wanted to pursue her case in the criminal court against Muhammad. The lawyer meant that there was a very good chance for Mina to divorce under the Spanish Family Code, as hers was a clear case of gender discrimination. Moreover, the couple had no children and Mina did not want any property, financial compensation, or maintenance from Muhammad. In January 2007, the lawyer told Mina that the divorce application had been accepted and the legal process had begun. The reasons for applying were gender-based violence and a period of three months from when the spouses did not live together. Despite this, Mina's husband refused to sign the divorce papers, which slightly delayed the decision to dissolve the marriage. The court tried to find the location of the defendant Muhammad to be present in the court proceedings, but in vain it was not achieved. Therefore, the Spanish court posted the details of the divorce proceedings on the notice board in court before the trial date. Despite this, this was not achieved and the divorce took place without the presence of her ex-husband Muhammad. Despite this situation, however, the recognition of the Spanish court decision by the Moroccan courts remained a challenge for Mina. Mina's ex-husband's parents claimed they knew nothing about Muhammad's whereabouts. Mina's aunt has said Mina will have to pay another visit to the Family Court in Casablanca to sign some letters and that she will probably get the Moroccan divorce in October. Once Mina receives the divorce acts, it will become completely clear what kind of divorce Mina got and under what conditions. The whereabouts of Mina's husband in Spain are currently unknown. He avoids contact with the Moroccan and Spanish judicial authorities. Muhammad's parents continue to claim that they do not know where and if their son lives in Spain. Mina's brother wants his sister not only to divorce under the reformed Moudawana but also to receive financial compensation from Muhammad for the suffering he has caused. This is usually done to prevent the husband from divorcing the wife or rather to dismiss her very easily. Before the reform in Moudawana, the only solution for Mina to get a divorce would have been to pay a sum of money to Muhammad for her "refusal", obtaining his consent

to release her. But there is currently a new possibility, mentioned above, called "divorce for some reason" in the case of what has been called "irreconcilable changes". Mina's brother may think to prove the legal consequences of such a process (Rosander, 2009). EU Private International Law has applied legal rules in matters of family relations, at the same time, its institutions have reached international agreements with countries outside the EU, which have a different legal system of family law. The concept of EU law is based on the rights of the individual as essential to the extent that states (Morocco, Algeria, etc.) are based on the divine concept. In this regard, of the many legal rules of EU law, it is worth mentioning, Council Regulation No. 1259/2010 of 20 December 2010, which deals with extended cooperation in the field of divorce. Article 10 of this regulation provides for the application of the forum law in marital disputes with a foreign element, specifically when in the divorce proceedings, the married couples are not equal in the divorce proceedings. This regulation applies in relation to spouses coming from countries of Muslim religious origin. The purpose of this regulation is to provide equal opportunity for spouses to file for divorce and to dissolve the marriage. However, there are substantial differences regarding the legal division between EU member states. In some EU member states, such as Maltese law prohibits divorce or, there are strict criteria for having the right to divorce in the laws of the Scandinavian countries (Finnish law and Swedish law), where no real basis for divorce is required. The reasons for the differences between member states are the laws and legal culture in the EU member states regarding the separation from the marital union and the division of the joint property created during the marriage. Observers have noticed that residence and alimony differ from state to state. "Brussels II" defines the primary competence of the court which decides on the dissolution of marriage at the request of one or both parties (Fiorini, 2008). Referring to Regulation No. 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) which is based on the Treaty establishing the European Community, in particular Articles 61(c) and 67, the proposal of the Commission and the opinion of the Economic and Social Committee in accordance with the procedure laid down in Article 251 of the Treaty, has established objectives for the gradual establishment of judicial co-operation in civil matters with cross-border effects. These measures should include compliance with the rules on judicial co-operation within the European community in civil matters with cross-border effects. Measures to be taken to unify the applicable rules relate to conflict of laws and conflict of jurisdiction. The European Council on 15–16 October 1999 confirmed the principle of mutual recognition of judgments. Recognition of court decisions is an even greater facilitation of the realization of the mutual rights and obligations of EU citizens. Recognition of court decisions implies their application in civil and commercial matters. The enforcement of court decisions from a material point of view should be in full compliance with Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and

commercial matters known as “Brussels I”. The regulation in question applies to all courts regardless of the court where the proceedings take place (Regulation No. 864/2007, 2007).

A marriage entered into for personal interests and not for the purpose of cohabitation and criminal liability.

Kosovo is a new state with independence declared on February 17, 2018, in the framework of drafting legislation and positive law, laws that affirm the rights of various categories of society have entered into force, such as; Anti-Discrimination Law, Law on the Use of Minority Languages, Family Law, etc. These laws are compatible with EU legislation. The subject of regulation of family relations according to this law is, engagement, marriage, adoption, guardianship, protection of children without parental care, property relations and special court procedures for resolving family disputes, application of the principle of non-discrimination, and respect for fundamental human rights and freedoms all these are based on the principle of secularism as an integral part on which the positive law in Kosovo is built. The Family Law of Kosovo has provided for the possibility of annulment of marriage in cases where there is a lack of common purpose. This is related to the personal interests of one or both spouses, in order to achieve their different objectives but not the common marital life. According to Article 66 of the Family Law of Kosovo (FLK), a marriage, that is entered into in the absence of the purpose defined by the FLK, is considered invalid. All of these have different purposes from which we can distinguish; intent in inheritance, family pension, evasion of criminal responsibility, and abuse of any other right (Assembly of the Republic of Kosovo, 2004).

3. RESEARCH METHODOLOGY

During this research, several scientific methods were used which, according to the authors, make it complete. Descriptive, structural, comparative, and analytical methods dominate. The authors, while describing the cases, have analyzed the EU rule for the implementation of extended cooperation in the field of the law on divorce and legal separation with Council Regulation No. 1259/2010. Also, the authors have addressed and analyzed the laws in countries such as Spain, Morocco, France, and Romania, namely: the Spanish Organic Law 1/2004, of December 28, on Protection Measures Comprehensive against Gender Violence, the Spanish Civil Code of 1899, specifically Articles 56, 57, 58, and 60, Law No. 2004/32 the Family Law of Kosovo, Moroccan Law also known as Moudawa. In the framework of this research, the decisions of the courts of the mentioned countries undoubtedly occupy an important place. Within the descriptive and reference methods, the authors have described the practical cases of the decisions of the courts of the EU countries. The alternative research methods that would be suitable for this research are historical, exploratory, developmental studies, and the method of studying different cases. According to the historical method, in this research, the laws and regulations approved earlier were taken and after analyzing them, the obstacles related to the topic addressed by the authors were found. This method has served as a model in the review of previous

legislations with those in force. Another method that would serve the purpose of the efficiency or quality of this research is the method of exploring the facts and evidence evidenced in the decisions of the courts in the field of diversity. Of course, another method that would be useful in this paper is that of development studies, through this method the degree of fulfillment of the international obligations of the states in relation to the EU would be measured. This can be done through surveys, petitions, or even direct interviews with the citizens of these countries. Taking into account that the case study method was used in the paper, however, as the main method, deeper research of other similar cases would be necessary for the articulation of the problems that were mentioned in the study. This is impossible in some cases due to legal restrictions in the respective countries, which we also encountered.

4. RESEARCH RESULTS

The paper provides one more opportunity for further research on cultural diversity. Also, from our research and the materials used, an analysis was made of the possibility of legal changes leading to the elimination of social differences. This would enable the narrowing of the differences between the cultures of certain social groups. If the legislation could be “liberalized”, of course, the possibility of increasing the standard of living would be greater. If this “liberalization” is done in political terms, the possibility of affirming political rights is real. The lack of free movement has increased the differences, creating a negative impact on the legal systems, and increasing the number of crimes in the family, in which crimes in one state can be punished, while in the other state criminal responsibilities are not taken into account. These crimes were preceded by the lack of communication with other countries and ignorance of other cultures, and prejudices have increased. These prejudices have become divisive in the field of cultural diversity, which made us responsible to contribute to the mitigation of these prejudiced reports and to increase our obligation for interpersonal tolerance. Also, the lack of human rights regulations, especially in the EU member states, is still an obstacle to the realization of the civil rights of different individuals, especially those individuals who live in traditions and social circles different from the EU. Kosovo, as a new state in terms of harmonizing local legislation with international and especially European law, has adopted numerous laws in the field of civil rights. This process is still ongoing. We believe in the efforts of the EU as an international organization to avoid these differences. This is hope for citizens who come from other countries and continents to build a future for themselves and their families.

5. CONCLUSION

Based on the issues addressed in this research, we believe basic freedoms still have legal obstacles. The cause stems from cultural, racial, economic, and intellectual differences, etc. Today, marriages of different cultural origins are not seen as obstacles. However, some states cause these stereotypes and

prejudice as divorces. Obstacles like these cause discrimination. This is caused by legal obstacles or legal emptiness that are left purposely. They become obstacles to the exercise of civil rights. Divorce cases often become legal obstacles for recognition of court decisions of divorce subjects. Various delays not only affect those subjects but also their descendants.

Despite that, the research contains achievements through specific examples of some court cases, however, our study could not be comprehensive for the fact that there are missing details and documents that would provide a current conclusion regarding the research. More precisely, our research is focused on the divorce procedure in the mentioned states as a cause of cultural diversity in EU countries and the difference of existing laws between states and practices of the court of these countries. In the case of judicial reviews, authors do not have additional data regarding the process of the judicial proceedings. Concerning these judicial processes, it is unclear whether those decisions have been implemented or whether these decisions have influenced the institutions of the states mentioned above and how these decisions serve as judicial practice. Another important issue is whether the harmonization of domestic positive law will continue and if so, whether there are inconsistencies in the legislation. In these cases, due to the lack of detailed information, the authors have not been able to expand further and deal with the issues to the end. These limitations have caused the lack of desired results. In fact, cultural diversity itself is a challenge for any legal system that can bring about the harmony required so that diversity does not encounter these further obstacles. These obstacles are numerous. We can address them in the following order: legal barriers, religious barriers, racial barriers, gender barriers, economic barriers, social barriers, etc. contributing far more to discrimination than to the affirmation of cultural diversity. Finally, we came to the conclusion that in addition to legal

differences, human differences are still on the surface which are not accepted due to interests, cultural differences, ideological differences, the tendency for superiority of nations, or even economic differences and social life itself. Morocco and Spain are close, but in fact, there are still obstacles which in legal life are directly respected freedoms and human rights, and these differences are highlighted in the case discussed above in this research.

Cultural diversity as a universal heritage of humanity, has been present in Kosovo for centuries. The coexistence of different cultures and religions in Kosovo is the most possible positive example for the whole of Europe. Kosovo dominated by an absolute majority of Albanians has coexisted and continues to coexist with multiculturalism. This originates from the multi-confessionalism of Albanians themselves (people with three religions). This coexistence was legally formalized with the change of circumstances in 1999 with the entry of international forces in Kosovo. The civil administration of UNMIK was to establish new institutions in Kosovo.

This civil administration made the laws and regulations an integral part of the positive law of Kosovo. After the independence of Kosovo, the completion of the positive law follows. It is also worth mentioning the political representation of all communities in the Assembly of the Republic of Kosovo and the employment of their community members in the state administration.

The future of this paper is the research and analysis of additional materials related to judicial decisions, then the level of civil rights and at the same time their harmonization with the positive rights of European countries. This is the challenge of the future of the aforementioned countries.

At last, the paper includes some important results which may contribute to further research in the cultural diversity field.

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