



universität
wien

MASTER THESIS | MASTER'S THESIS

Titel | Title

Crimes of Humanity/ Genocide in the Chameria Region and their right to Repatriation

verfasst von | submitted by

Sara Seseri

angestrebter akademischer Grad | in partial fulfilment of the requirements for the degree of
Master of Laws (LL.M.)

Wien | Vienna, 2026

Studienkennzahl lt. Studienblatt |
Degree programme code as it appears on
the student record sheet:

UA 999 079

Universitätslehrgang lt. Studienblatt |
Postgraduate programme as it appears on
the student record sheet:

Human Rights (LL.M.)

Betreut von | Supervisor:

ao. Univ.-Prof. i.R. Dr. René Kuppe

Dedicated to my ancestors, their strength continues to inspire me.

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Crimes of Humanity/ Genocide in the Chameria Region and their right to Repatriation.

Introduction

The Chamerian community of Albanians is the Albanian population located in the southwestern territory of Albania and the northwestern part of Greece. This community's current territorial scope was established in 1912, when, because of the demarcation of the border between Greece and Albania, the London Conference of Ambassadors decided that the greater part of this region would be part of the territory of the Greek state. This decision led to disappointment among the Albanian state and the Chamerian community, leading to various forms of protest. However, the protests did not give the desired outcome, primarily due to the lack of a consolidated Albanian state, and also the insistence of the Greek state to its objective, often guided by the Orthodox Christian ideology. Consequently, for approximately 33 years, the Greek state has implemented measures and enacted laws that are widely regarded as serious violations of fundamental human rights of the Chamerian community.

The violation of these rights within the Chamerian community can be examined from two key directions. First, there is the breach of the right to life and health, demonstrated through grave illegal acts including mass murder, kidnapping, massacres and rape. These actions were often driven by the dominant religious ideologies of the era. Second, the right to property has been significantly violated; the assets acquired by this community during the Ottoman Empire underwent a prolonged process that culminated in their expropriation of their property by the state. This shift resulted in the transfer of Chamerian properties to the Greek state. The timeline of these alleged violations traces back to 1923 with the signing of the Treaty of Lausanne- a period characterized by widespread emigration from the Chamerian community and concluded around 1944-1945, at the end of World War II.

Methodology

To provide a comprehensive and concise overview of the violations faced by the Chamerian community, this paper draws upon numerous historical and academic sources. It includes an exploration of the historical context surrounding the: “Chamerian Issue”, detailing the territorial distribution and ethnographic characteristics of the community, and the objective perspective of each party involved with the use of historical events, evidence from archives and a legal

analysis. The sources are selected based on academic standards. The sources selected are Albanian archives, respected books, secondary source papers who maintain primary source evidence. The documents which this paper is based on are not written on the times of the event but the evidence within the documents are from the times of the event. A careful consideration has been taken in order to ensure that the sources used are not conflicting and holistically reflect the occurrence without any predicament bias. Due to the highly sensitive nature of the topic and to ensure maximum transparency and objectivity, the author uses direct long citations to protect the origin and value of the proof. This is a methodological approach that safeguards and removes the risk of bias and guarantees that the facts remain rooted in documented state practice.

This paper follows a logical and coherent line of work. It needs to be highlighted that Albanian and Greek have two opposite points of view with regards to the topic. This paper aims to provide a thorough analysis of the Chamerian issue considering all perspectives in play, so crossed referencing has taken place. Through this paper, the conflict has been analysed through existing international law with careful consideration with the primacy of the rule of law entailing no retroactivity to rule of law. The analysis has a chronologic reasoning. The analysis has chronological reasoning, meaning the judicial investigation is divided into time phases. It starts with the historical background, in 1912, when the demarcation of the border occurred, continues to phase two and then it ends with the peak events prior to the end of World War two 1944. Additionally, the paper conducts a thorough analysis of both substantive and procedural crime law concerning the definitions of genocide and crimes against humanity. This analysis aims to address whether the actions taken against the Chamerian population by the Greek state fulfill the criteria for classification as genocide and or/ crimes against humanity. Particular emphasis is placed on the legal challenges that obstruct the investigation and prosecution of these offenses by the International Criminal Court, which possesses jurisdiction to address genocide and crimes against humanity as significant violations under international law, but is unable to retroactively apply its legislation through its treaties due to the overarching principle of rule of law, entailing no retroactivity of the rule of law. Lastly, this paper assesses the mechanisms and factors that both facilitate and inhibit the Chamerian community's exercise of their right to property.

1.1 Territorial Extent, Ethnographic Characteristics of the Chamerian Community, and the Essence of the “Chamerian Issue”



The region of Chameria lies in the southwestern part of the Balkan Peninsula—historically part of southwestern Albania and presently located in northwestern Greece. Its position is located along the Tsamis River, historically populated by the Illyrian tribe of the Thesprotians, Chameria is also referred to as Thesprotia. Currently, the region spans from Butrint and the mouth of the Acheron River in the south, extending northward to Lake Prespa, reaching east to the Pindus Mountains, and stretching south to Preveza and the Gulf of Arta².

From the standpoint of its administrative and territorial development over time, Chameria was once part of the Roman Empire prior to its conquest by the Byzantines, and in the 13th century, it became part of the Despotate of Epirus. In the latter half of the 14th century, it was incorporated into the Albanian Despotate of Arta. Following the Ottoman conquest in the 15th century, the region was initially placed under the jurisdiction of the Sanjak (district) of Delvina, and later that of Janina³.

Meanwhile, given the ethnographic characteristics of this region, in the seventeenth and eighteenth centuries, the mainly Albanian population of northern Chameria - from Konispolis to the Gliqi River - was forcibly converted to Islam, while those living south of the Gliqi to the

¹ A historical map, which shows the Chameria region as part of Albania, before the demarcation of the border between Greece and Albania, accessed by the link: <https://www.wikiwand.com/sq/articles/Çamëria>.

² Historical map showing Chameria as part of Albania before the Greek-Albanian border demarcation: Wikiwand - Chameria

³ Vickers, Miranda. *The Chamerian Issue: Albanian National and Property Claims in Greece*, Center for Conflict Studies, April 2002, pp. 1–3. Last accessed June 12, 2025: ETH Zurich PDF

Gulf of Preveza remained Orthodox Christians. The Muslim Albanians of Epirus were in perpetual feud with their Christian neighbors, due to the type of land that they owned which was productive and fertile. Historically, the Epirus region has had a very ambiguous ethnicity. As a late nineteenth-century visitor noted: The whole Tosk country⁴ has been strongly influenced by Greece, or rather it would be difficult to say whether Epirus is Greek or northwestern Greece is Albanian. Although the southern dialect of Albanian is used for conversation, Greek is universally understood.^{5,6}

Taking into consideration the territorial extent of the Chamerian region, its ethnographic characteristics, and the decision-making of the authorities of the time regarding the definition of the borders, it can be said that the beginning of what is today labeled as the “Chamerian issue” dates back to 1912, the year in which the border demarcation between Greece and Albania took place after the end of the Balkan Wars and specifically when the London Conference of Ambassadors decided that the Chamerian region should be given to Greece⁷. Thus, in the academic source cited, it is quoted that: “*The Chamerian conflict arose as a result of the definition of the border between Greece and Albania at the end of the Balkan Wars. In 1912, the London Conference of Ambassadors allocated the Chamerian region to Greece, so that today only seven Chamerian villages, concentrated in the village of Konispol, are located in Albania itself.*”⁸

The border demarcation caused considerable concern, especially among the Chamerian population and the Albanian side, both of which had already experienced significant loss of territory and population. With regards to the border, there were many protests from the Albanian side. The Albanian press protested against what it perceived as injustice regarding the substantial reduction of both territory and population, and it highlighted concerns over how “political interests influenced the fate of a nation that had lived for thousands of years in these lands”.⁹

⁴ The term “Tosk” refers to Albanians who live south of the Shkumbi River. They speak a different dialect and have different cultural traditions from the Gheg Albanians who live north of the Shkumbi. Vickers, Miranda, “The Chamerian Issue, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, page 3, April 2002, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

⁵ Odysseus, Turkey in Europe, London, 1900, p401, cited in Vickers Miranda, “The Chamerian Question, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, page 3, April 2002, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

⁶ Vickers Miranda, “The Chamerian Issue, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, page 3, April 2002, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

⁷ Vickers Miranda, “The Chamerian Issue, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, page 3, April 2002, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

⁸ Vickers Miranda, “The Chamerian Issue, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, page 3, April 2002, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

⁹ Newspaper “Djaleria”, cited in Zenelaj 2013: 287,289, cited in Blerina Sadik, “Albanian Chamerian Issue: A Historical- Juridical View” (1913-1939), page 38, accessed for the last time on date 12.06.2025 at link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf

Following the demarcation of the border, the Albanians placed significant anticipation in the justice of the Great Powers.

About a year before the decision on Albania was made, a source states that a delegation from the British parliament, received assurance that “Albania's wishes and goals” would be taken into consideration¹⁰.

Following the decision of the London Conference (1913), the Hellenic Republic continued its pursuit of territorial expansion, particularly towards the southern Albanian provinces- a strategic aim previously articulated in the Treaty of Vöslau (26 August 1867), and for this reason the military operation in Southern Albania, including Chameria persisted. These actions represent an substantive regression of humanitarian law principles, hindering the civilians access to fundamental human rights¹¹.

The post conflict trajectory of the Chamerian population represents a complex case study, between state political will and objectives and consideration for international human rights. In the analysis of the Chamerian issue, time will be used as a criterion for the division of the periods. The long and difficult process for the Chamerian community is divided into three periods, each with its own subjects and characteristics, but all with the common denominator; injustices against the Chamerian population, materialized in violent acts that consequently brought about the displacement or emigration of the Albanians of Chameria.

In the same line of thought, the academic source cited quotes: *“There were three distinct phases of the emigration of the Chamerian population from northern Greece. The first occurred during the Balkan Wars of 1912-1914, the second after the signing of the Greek-Turkish Convention in Lausanne in January 1923, and the third occurred at the end of World War II, in the period from June 1944 to March 1945, during which about 5,000 men, women, and children were killed. The rest of the Albanian Muslim population of Chameria fled across the border to Albania, where they have lived in exile ever since.”*¹²

The initial phase, spanning from 1912–1914, is marked by state-sponsored violence attributed to the Greek government, including acts that may be classified under international law as massacres and forced abductions. These actions were reportedly carried out in coordination with the Greek Orthodox Church, which leveraged religious

¹⁰ Newspaper “Djalëria”, cited in Zenelaj 2013: 287,289, cited in Blerina Sadik, “Albanian Chamerian Issue: A Historical- Juridical Point of View” (1913-1939), page 38, accessed for the last time on date 12.06.2025 at link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf

¹¹ Blerina Sadik, “Albanian Chamerian Issue: A Historical- Juridical View” (1913-1939), page 38, accessed for the last time on date 12.06.2025 at link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf

¹² Vickers Miranda, “The Chamerian Issue, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, page 3, April 2002, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

identity as a mechanism to fragment the Chamerian population along a particular religious group. As a result of persecution and systemic intimidation, significant segments of the Chamerian community were compelled to abandon their ancestral homes, culminating in large-scale displacement toward Albanian territory.

In the cited academic and historical source it is referred to as: “...some Greek troops began to withdraw from Chameria. However, Greek terrorist gangs remained as active as ever. Since the majority of Chamerians were Muslims, they were treated with the same contempt as the ethnic Turks living in Greece. On 23 February 1913, 72 people were killed in the village of Proi i Selani near Paramitha. This marked the beginning of attacks on civilian Albanian Muslim targets, which were intended to instill fear in the population and thus encourage them to flee their homes. Throughout the next decade, the property of Albanian Muslims was systematically looted and many young people were deported into internal exile on the Aegean islands. Thousands hectares of land owned by Chamerians were expropriated without compensation, their crops were seized, and they were forbidden to plant their own corn, or to sell or rent their property to prevent its expropriation. Thus, it became impossible for many families to remain in Greece, forcing them to flee north to Albania in search of land.”¹³In an attempt to resolve the Chamerian issue, the government in Athens had tried to obtain Ankara’s approval to encourage some Chamerians to emigrate to Turkey, in the hope that the rest would follow. Initially, Ankara had been unwilling to allow the settlement of Albanian Muslims on Turkish soil, but after great diplomatic efforts by Athens, the Turkish government agreed to allow the settlement of about 5,000 Chamerians.”¹⁴ The historical record of Chameria between 1913 and 1915 reveals a harrowing pattern of state sanctioned persecution and systematic violations of fundamental protection. Following the 1913 occupation, the Greek administration is alleged to have initiated a deliberate policy of ethnic religious marginalization against a population of approximately 70,000 Albanian speaking inhabitants utilizing a strategy of “forced displacement” and institutionalized oppression.” This was marked by a total breakdown of the rule of law, where paramilitary groups such as the ones led by Deli Janaqi carried out extrajudicial massacres, including the execution of 72 civilians, mainly from the Paramithia region with a tactic complicity of military authorities. The documented use of severe torture against community leaders like Fuat Prnonjo, Zybhi Dine and Agak Prnonji, three leaders whom Deli Janaq tortured. These atrocities extended to collective punishment, as indiscriminate mass beatings targeting the Albanian population

¹³ A similar pattern was emerging in the Kosovo region of southern Serbia, whereby Albanians were being encouraged to leave their lands for Turkey, and Serb and Montenegrin colonists were brought in to settle on the vacated Albanian land, cituar në Vickers Miranda, “Çështja Çame, Pretendimet Kombëtare dhe Pronore të Shqiptarëve në Greqi”, Conflict Studies Research Center, April 2002, page 4, last accessed on 12.06.2025 at the link:https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

¹⁴ Vickers Miranda, “The Chamerian Issue, National and Property Claims of Albanians in Greece”, Conflict Studies Research Center, April 2002, page 4, last accessed on 12.06.2025 at the link: https://www.files.ethz.ch/isn/38679/2002_Apr_2.pdf.

regardless of age or status. Collectively, these actions constituted a grave violation of the right to life, physical integrity and protection of minority rights, representing an early 20th century effort to achieve demographic shifts through a campaign of sustained terror and violence.

After the aforementioned event, in the source cited, it was written that the Greek army gathered 23 men selected from the leadership village Grykohor, in the province of Igumenica, with the intention of exterminating them.

Five days after the aforementioned event, the Greek army gathered 23 men selected from the leadership of the village of Grykohor, in the province of Gumenica, for the purpose of “extermination”, commuted to severe torture only due to external political leverage in Istanbul. This demonstrates that the Greek military administration utilized civilians as political tools, violating fundamental right to life and freedom from cruel and inhuman treatment. To add to the above, the consequent implementation of infliction of torture and suffering through acts such as beating under the pretext of disarmament represents a campaign of collective punishment and physical abuse that targeted the Albanian population based on ethnic identity rather than individual criminal conduct. It was during the period of “autonomy” in southern Albania that the Greeks declared,¹⁵ that the state institutionalized a climate of terror, by inflicting physical and psychological trauma to destabilize the minority community and promote displacement.

In addition to the above, testimonies of foreign diplomats reflect the situation that the Albanian population of Chameria and the surrounding regions have experienced during this period. In a report that Harry Lamb, the British consul, sent to the Secretary of Foreign Affairs in Vlore on October 25, 1913, he described that the aim of the Greek military authorities was “to eliminate the non-Hellenic element in the region”, which according to him was almost entirely Albanian.¹⁶ In today's term this is recognized as ethnic cleansing. This was not merely a consequence of war, it was a target aimed at the Albanian people. From a judicial point of view, the aggression was identity based. In this particular case, they were targeted based on two identities, one for their ethnicity; Albanian, and secondly for their religion; Muslim.

¹⁵ Albert Ll. Kotini, “Çamëria denounces”, Fillad, 1999, pages 7, 8.

¹⁶ Dushku 2014: 184, cited in Blerina Sadik, “The Chamerian Issue: Historical – Legal View” (1913 - 1939), page 40, last accessed on 12.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf.

He also emphasized that “these actions were inexcusable, especially in Chameria”¹⁷. Reports from the Austro-Hungarian diplomat Karl Buhberger¹⁸ testifies to the Greek atrocities of this period, namely near the outskirts of Ioannina for which he declared that “there were Mohammedans killed on the streets, with their eyes gouged out”.¹⁹ This example suggests a level of sadistic violence intended to terrorize. Among the first measures taken by the Greek army were the disarmament of the population in Paramitha and Margëlic.²⁰ From a judicial analysis this means prohibiting them from their Right of Self Defence, therefore directly conflicting with the Principle of Equality. This act promotes continued violence without the ability of the opposition to counter attack.

The Greek authorities returned two months later under this pretext, and finding no more weapons, thus they carried out beatings and imprisonments against the local population.²¹ This creates a vulnerability trap, where the Chamerians are unable to self defense as mentioned above. On the other hand, at this time, it is also noted that the Christian inhabitants who lived in the villages near Chameria were supplied with weapons, at a time when the population of this region [the Chamerians] was unarmed.²² Mosques and Muslim cemeteries were destroyed.²³ In the memorandum presented by the Albanian delegation on May 18, 1921, the Albanian side declared that in Chameria since 1912 the neutral and defenseless local population was being violated in various forms by regular soldiers and Greek gangs.^{24 25}

Under international law, Greece's direct funding and provision of arms to non state groups explicit Christian Chamerian group, are inadvisable an extension of the state and hence Greece can be held liable for any atrocities committed by this specific group, even though they are not a state body, this is otherwise known as the doctrine of Effective Control.

To add to the above, the demolition of Muslim sites, from the law point of view, is an example that shows that the atrocities committed were not aimed as just war, but as elimination of a religious group. A similar case is noted in the International Criminal Tribunal for the former Yugoslavia (ICTY) in *Kordic v Cekrez* case. In this case the court

¹⁷ Dushku 2014: 184, cited in Blerina Sadik, “The Chamerian Issue: Historical – Legal View” (1913 - 1939), page 40, last accessed on 12.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf.

¹⁸ Karl Buhberger was one of the signatories of the Florence Protocol (December 17, 1913), after replacing Consul Bilinski, cited *ibid.*.

¹⁹ Sadiku 2011: 112-113, cited *ibid.*

²⁰ Dushku 2014: 178, cited *ibid.*

²¹ *Ibidem*; Colonna di Cesaro 1922: 182, cited *ibid.*

²² Destani and Elsie 2013: 12, cited *ibid.*

²³ Dushku 2014: 178. 99, cited *ibid.*, page 38.

²⁴ Godart [1922] 2015: 279, cited *ibid.*, page 41.

²⁵ Blerina Sadik, “The Chamerian Issue: Historical - Legal Overview” (1913 - 1939), page 41, last accessed on 12.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf .

has determined that the demolition of religious sites, in combination with violence acts it is a determination of the “intent to commit crimes against humanity”²⁶. Such events can actually be considered as crimes against humanity, in relation to the research question of this paper. To add to the above, based on the 1912 memorandum that enables the Chamerian community with the Non Combat status, it demonstrates that the injured from these acts of violation were in fact a population that was defeated by international law, thus this is a breach of the rule of law of the 20th century, known also as the Hague Convention.

In the course of the above-mentioned events, among others, academic and historical sources also refer to the Selani massacre, which serves as a case study in the systematic targeting of the Chamerian. Historical records, including the report from the newspaper “Liri e Shqiperia”, a diplomatic correspondence, detailed the execution of 72 members of the Chamerian nobility. In this case elements of treachery are present; it was reported that these figures were lured to their death under the false premises of compensation of war damages caused by the Greek army.²⁷ The aftermath of the massacre was followed by a denial from the Greek minister in London, as well as official Venizelos.²⁸ Advocate Aubrey Herbert, in a letter he sent to the newspaper “The Morning Post”, wrote suggesting that even “expel” of these 72 Chamerians (itself a violation of rights), would have been the better choice rather than denial.²⁹ From a legal standpoint, based on the Greek government’s defense at the Conference of Ambassadors in London in 1913 is to an extent significant. By attributing the atrocities to “gangs” rather than the state, they protect the government from sovereign responsibility. However, this defense was undermined by a foreign diplomat who provided evidence that these “gangs” were operating under the command of the Greek army.³⁰ This is a pattern during the rules of law, of the utilization of irregular forces to carry out state objectives in order to avoid legal responsibilities.

In the aftermath of the Selani massacre, evidence in the cited source suggests that the Chamerian population was subject to economic liquidation. Testimony provided by Mazar

²⁶ Prosecutor v Kordic and Cekrez (Trial Judgment) IT 95-14/2-T (26 February 2001)

²⁷ Isufi 2002: 147; Isufi 2007: 55; Minga 2003: 110-111. Colonna di Cesaro 1922: 181, cited in Blerina Sadik, “The Chamerian Issue: Historical – Legal View” (1913 - 1939), page 41, last accessed on 12.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf.

²⁸ Letter from Aubrey Herbert to the editor of The Morning Post, 4 November 1913, published 5 November 1913, in Aubrey Herbert and the Making of Modern Albania, Diaries and Letters 1904-1923. Adapted by Bejtullah Destani and Jason Tomes, Tirana, 2012, pp. 202-204; This letter was a response to the Letter of 24 October 1913, published in The Morning Post on 25 October 1913, written by the Principal of King’s College Ronald Montagu Burrows, and the Director of the London School of Economics William Pember Reeves, who had questioned the veracity of Herbert’s statements, given that they supported Greek claims. For more, see Destani and Tomes 2012: 200-202, 205-211, cited *ibid*.

²⁹ Destani and Tomes 2012: 203, cited in Blerina Sadik, “The Chamerian Issue: A Historical – Legal Perspective” (1913 - 1939), last accessed on 12.06.2025 at the link: [content/uploads/2021/11/Blerina_Sadiku-final.pdf](https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf).

³⁰ Meta 2007: 29, cited *ibid*.

Dino on July 28, 1917 to the General Commissariat of the Italian troops indicated that for several months, the Greeks engaged in systematic seizure of private property and other assets, leaving the community to absolute poverty.³¹ Between 1913 and 1915, these acts continued significantly, this persistent pattern of abuse appears to be an instrument aiding the Greek state towards their territorial expansion objectives, which was executed through forced displacement and systematic marginalization of the ethnic Albanian minority.³²

In the light of the evidence provided, the military operations executed against the Chamerian civilian population in the late 1916, represent an escalation in the application of systematic human rights violations. As documented in the formal reports of *Italian Deputy, Colonna di Cesaro*, a series of massacres were carried out by the Greek army towards the Chamerian population. Following the deployment of a Greek troops commanded by Captain Nakis into the Mayrek region; the administration oversaw a regime of state sanctioned torture and collective punishment that targeted non combats with physical abuse as stated in the source: "hanging them from trees by their feet and burning grass under their heads with the intention of asphyxiating them. "These inhumane treatments were also applied to women. Many of them became ill and died.³³

During the occupation, the situation was further intensified when destruction of inhabitant's infrastructure occurred. A demolition of 1,000 residences in the villages of Chameria as stated in the source. "Houses of the villages of Paramithaje and Filati were destroyed, namely Gardhiqi with 300 houses, Dragumi with 200, Petronica with 75, Minina with 60, Ninati with 120, Markati with 120, Janjari with 150."³⁴ ³⁵ From a juridical perspective, the Colona di Cesaro report establishes a clear link between state authorized action and reduction of the population of Chameria through executions, famine, and forced displacement; these are characteristics of demographic destabilization and minority cleanse. To conclude this paragraph, the Colona di Cesaro report serves as a documentation of specific acts, qualifies as Article 7 of the Roman Statute. This specific prohibited acts as torture and persecution, as specifically mentioned above with the real example, because it it targeted at both women and non armed civilians strips off any accusations that these acts were commited under militay defence. In the notion of Genocide, the acts of planed famine through the destruction of infrastructure responsible for food production and agriculture that are can be categorised as planned famine used to wipe out an entire community. Under Article II(c) of the Genocide Convention these factors can be qualified as Genocide/ Crimes against Humanity. Captain Nakis, is an important element

³¹ Colonna di Cesaro 1922: 181, cited *ibid.*, page 41.

³² Meta 2007: 29, 30, cited *ibid.*, page 41.

³³ Colonna di Cesaro 1922: 182, 183, cited *ibid.*, pp. 44-45.

³⁴ *Ibidem*: 182, pages 44-45, cited *ibid.*

³⁵ Blerina Sadik, "The Chamerian Issue: A Historical and Legal Perspective" (1913 - 1939), pages 44-45, last accessed on 12.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf.

because under Command Responsibility Doctrine, the state is responsible for these actions because as mentioned in the doctrine, the troops were directed from an official state representative; an officer.³⁶

The evidence record indicates that the primary phase of the Chamerian crisis spans from the beginning during the 1912 occupation and to its “de facto” conclusion in 1922, a decade characterized by continuous and systematic breaches of international human rights standards. These actions were undertaken by state agents and gangs, the actions point towards continuous persecution targeting the Chamerian community. From a legal point of view, the nature of the acts, ranging from execution, torture and destruction of property, rule out any justification under state sovereignty, as also mentioned above through the Doctrine of Command Responsibility. During these decades, evidence correlates with violation of fundamental human rights and international criminal law, particularly the protection of non combatants and minority groups in occupied territories. The detailed analyses of the violations of human rights, crimes against humanity and breach of minority protection will be addressed in the following chapter.

The second phase of the Chamerian issue is defined by the signing of the “Convention on the Exchange of Greek and Turkish Population” in 1923, which established a compulsory migration “regime” based on religious identity.

Article 1 of this convention provided that: *“As of May 1, 1923, a compulsory exchange shall take place of Turkish citizens of the Greek Orthodox religion residing in Turkish territory and of Greek citizens of the Muslim religion residing in Greek territory. These persons shall not return to live in Turkey or Greece respectively without the authorization of the Turkish Government or the Greek Government respectively.”*³⁷

From a property right perspective, the Convention established a liquidation and compensation mechanism. Article 9 provided that: *...Subject to the provisions of Articles 9 and 10 of this Convention, the property rights and monetary assets of Greeks in Turkey or of Muslims in Greece shall not be affected as a result of the exchange to be effected under this Convention.*³⁸

³⁶ International Commity of the Red Cross(ICRC), “Command Responsibility) February 2008. https://www.icrc.org/sites/default/files/document/file_list/command-responsibility-icrc-eng.pdf, last accessed 18 January, 2026.

³⁷ Article 1 of the Lausanne Peace Treaty VI “Convention concerning the exchange of Greek and Turkish populations”, Lausanne, 30.01.1923, accessed on the official website of the Ministry of Foreign Affairs of the Republic of Turkey, at the link: https://www.mfa.gov.tr/lausanne-peace-treaty-vi_-convention-concerning-the-exchange-of-greek-and-turkish-populations-signed-at-lausanne_.en.mfa.

³⁸ Article 9, *ibid*.

... Movable and immovable property belonging to persons who have already left the territory of the High Contracting Parties and who are considered, in accordance with Article 3 of this Convention, to be involved in the exchange of populations, shall be liquidated in accordance with Article 9. This liquidation shall be carried out notwithstanding all measures of any kind which, under the laws adopted and regulations of any kind issued in Greece and Turkey since October 18, 1912, or in any other way, have resulted in any restriction of the rights of ownership over the property in question, such as confiscation, forced sale, etc. If the property referred to in this Article or in Article 9 has been subject to a measure of this type, its value shall be determined by the Commission provided for in Article 11, as if the measures in question had not been applied.

In respect of expropriated property, the Mixed Commission shall undertake a new valuation of such property, if it has been expropriated since October 18, 1912, having previously belonged to persons obliged to exchange population in the two countries, and is situated in the territories to which the exchange applies. The Commission shall determine for the benefit of the owners such compensation as will repair the damage which the Commission has ascertained. The total amount of such compensation shall be held to the credit of such owners and to the debt of the Government in whose territory the expropriated property is situated.

Article 10 provided that: In the event that any person referred to in Articles 8 and 9 has not received income from property, the enjoyment of which he has lost in one way or another, the recovery of the amount of such income shall be income will be guaranteed to them on the basis of the average yield of the property before the war, and in accordance with the methods to be determined by the Mixed Commission...³⁹

Article 11 provided that ... *Within one month of the coming into force of this Convention, a Mixed Commission shall be set up in Turkey or Greece, composed of four members representing each of the High Contracting Parties and of the Nations from among the nationals of the Powers which did not take part in the war of 1914-1918. The presidency of the Commission shall be held in turn by each of these three neutral members.* ..⁴⁰

Article 12 provided that ... In general, the Mixed Commission shall have full power to take the necessary measures for the execution of this Convention and to decide on all questions which this Convention may raise,⁴¹

³⁹ Article 10, of the Lausanne Peace Treaty VI "Convention concerning the exchange of Greek and Turkish populations", Lausanne, 30.01.1923, accessed on the official website of the Ministry of Foreign Affairs of the Republic of Turkey, at the link: https://www.mfa.gov.tr/lausanne-peace-treaty-vi_-convention-concerning-the-exchange-of-greek-and-turkish-populations-signed-at-lausanne_.en.mfa.

⁴⁰ Article 11, *ibid.*

⁴¹ Article 12, *ibid.*

Article 16 provided that... *No obstacle shall be placed in the way of the inhabitants of the districts excluded from the exchange under Article 2 freely exercising their right to remain in or return to those districts and to fully enjoy their freedoms and property rights in Turkey and in Greece*⁴²”.

From an objective legal point of view, the handling of the Chamerian community points to a clash between international law and customary practice. The 1923 agreement was two-sided between the Turkish state and Greece, however the Greek state applied this treatment also to Chamerians, based on their religion. This is a case of judicial overreach. Moreover the state seized the Chamerians property while they were legally protected in this treaty, therefore resulting in a breach of state responsibility. In this particular case, it is a direct violation of Article 16, the right to remain in their country, their right to their own property and freedom of movement. The Chamerian community was ethnically Albanian, they were excluded from the exchange which was specific to Turks and Greeks. But the Greek state put them also in the same category despite their ethnicity, therefore forced displacement occurred. Article 16 was a protective mechanism which was violated by the Greek State.

The third and most critical period in the history of the Chamerian Community, is the end of **World War II, starting from June 1944 to March 1945**. It began with the Axis occupation of the region during World War II, Chameria became part of complex global power dynamics, Italian and German occupation forces sought to exploit the ethnic tensions to consolidate their control. During this time, with the support of the Dinej clan, they managed to turn some individuals into mercenaries against both Greek and Albanian partisan forces.

From a juridical point of view, however, these actions of this specific sub group do not excuse the state of its obligations under international humanitarian law. In the context of human rights, the behaviors of a minority clique cannot legally justify the wholesale criminalization of an entire ethnic group. The Greek state later cited this as a collaboration, thus a justification for the operations of 1944-1945, this will be also analyzed below, but from a legal perspective, this constitutes an unlawful application of collective punishment. Under the laws of war and principles of human rights during this period, the state is required to distinguish between combats and non-combats, the failure to do so, as it was seen in this massacre, represent a breakdown of the Principle of Distinction and a transition from target military retribution to systematic ethnic cleansing.

Consequently, while the Chamerian Albanians remained mostly Muslims in the prewar time, this minority group fell drastically in terms of number because of targeted operations from June 1944 till March 1945. Based on the documents, there was evidence of

⁴² Article 16, *ibid*.

executions of non-combats, including women, children, and the elderly. These actions are a result of a strategic objection, ethnic cleanse, and large-scale expropriation of Chamerian owned land. These assets, totaling thousands of hectares, are administered by the Greek State and the Orthodox Church. From an human rights law outlook, this constitutes a *prima facie* case of ethnic cleansing and forced denationalization. This process is characterized by systematic deprivation of the right to life and de-territorialization of a protected minority group, through state sanctioned seizure of their property. This shows a failure of 'minority protection' frameworks, the state breached its international obligations of the 1923 treaty, culminating in deprivation of the right to life and property. By wrongly applying the 1923 Treaty to a group that should have been exempt, the state used an international law as a tool to strip down the Chamerians of their legal standing. This created a legal gap that left the population unprotected. This period of systematic violence, reached its pick with the tragedy of Paramythia, regarding which historical source state that:

*"The German collaborator, the Greek General Zervas, committed many massacres in Chameria. In agreement with the Germans, in June 1944, the EDES troops of the X Division commanded by Kamara attacked the Chameria regions from the Paramitha and Margëlliç directions. They tried to block the population of these places in order to exterminate them all. With various letters and announcements from Zervas' senior officers and from himself, they tried to trap everyone without exception. Zervas himself and his senior officers, swearing on the Greek flag and military honor, lied to the Paramithia elders that no one would suffer and that they should not be afraid. So the entire population of Paramithia remained in place without anyone leaving and the next day, June 27, 1944, they suffered the consequences of this treachery, where in **a barbaric and despicable manner, more than 600 women, men, old men and children were killed, stabbed, beaten to death, etc. They dishonored all the beautiful women and girls and then put them in prison like animals and left them to die of hunger.** Thus, almost the entire Albanian population of an entire city was wiped out, with the exception of a few women and children who remained the simple witness of this horrifying tragedy."*⁴³

With the occupation of Parga on August 28, 1944 EDES paramilitary forces under Napoleon Zvervas performed systematic violences, as a consequence 52 civilians among them children, women and elderly were killed.⁴⁴ According to historical sources, the report of Colonna di Cesaro and Albert Kotini : "In the village of Spatar in Filat, they surrounded the village and killed everyone they found, numbering 157 men, women and children."⁴⁵ This shows a pattern of systematic unselective targeting. These acts display a

⁴³ Albert Li. Kotini, "Çamëria denounces", Fillad, 1999, pages 12, 13. page 11.

⁴⁴ Ibid., page 11.

⁴⁵ Albert Li. Kotini, *Çamëria: Dokumente e Dëshmi (1912-1945)* (Tirana: Botimet Dudaj, 2008), pp. 180-185; see also "The Report of Giovanni Colonna di Cesarò on the Massacres in Chameria," *Archivio Storico del Ministero degli Affari Esteri*(ASMAE), Rome.

total disregard towards the Principle of Distinction between combats and non combats. This is a case of Extrajudicial Killings and Demographic Liquidation, because an entire population in that specific place were erased. As written in the source the Commander of Filat stated: **“You must shoot everyone without delay, without waiting for orders from higher command, because then it will be too late.”**⁴⁶ This is clear evidence of an aforethought aim at performing mass acts of inhumane acts. From a legal perspective, this direct order given by the commander is evidence of incitement to perpetrate war crimes. Several accounts of different affected persons entail different methods of torture and execution used to inflict pain, suffering and ultimately death upon the ethnic minority by the Greek officials. Based on the victim's testimony, the systematic coordinated acts of violence meet the criteria for persecution under crimes against humanity. These acts were state sanctioned, the clear command to shoot and “...not waiting for order from higher command..”⁴⁷ can be argued as a plausible disability. This can be seen as the Greek state's strategy to be protected from criminal accountability.

It needs to be highlighted that Greek state archives were not accessed for the purpose of verification but based on all of these reports, an approximate statistic has emerged. This is a quantitative analysis of the aftermath. Data from the Colona di Cesaro and L.Kotini reports, the total number of killings in Chamria is around 2,300 plus an additional 2,400 individuals during their imposed displacement. This is equal to a total of 4,700 victims. For the destruction of their property, a military tactic named scorched earth was used. The number of destroyed and burned houses thus reaches 5800. As a result the economic capabilities decreased as well. It is alleged that the damage amounted to 128,000 heads of farm animals and around 13 million oke of crucial food.⁴⁸

Meanwhile, for the purpose of proving the above acts undertaken by the Greek state and/or the irregular army of Greece against the Albanian Chamerian community, it is important to bring into the content of this work some data documented in various acts and summarized in the exhibition entitled *"Enemy without a Cause, the Chamerian Program after the Second World War"*, published on the official website of the General Directorate of Archives of the Republic of Albania⁴⁹, a public state institution whose object of activity is the organization and functioning of the archival service in Albania, the institutions that perform this service, as well as their legal obligations for the creation, preservation and use of archival assets, as part of the national heritage.

⁴⁶Ibid., page 184

⁴⁷ Ibid., page 184

⁴⁸Albert Ll. Kotini, “Çamëria denounces”, Fllad, 1999, pages 12, 13. Note: The unit 'Oke' is an Ottoman measure of mass equivalent to approximately 1.28 kilograms.

⁴⁹ Official website of the General Directorate of Archives, accessed at the link: <https://arkiva.gov.al/ekspozita/armiq-pa-nje-kauze-programi-cam-pas-luftes-se-dyte-boterore>.

Thus, the exhibition includes an Italian study that presents a brief history of Chameria, where it is mentioned, among other things, that: “ *In April of 1919, by order of colonel Ebitis, was arrested and brutally killed Subli Bej Dino, Pronjo from Paramithia and Alush Gjyzeli from Margellici in Nemize, the arrests and murders were carried out without charge, without trial but only because they were Albanian. Then, all at once, in a single well, 72 people who had been summoned to appear before the authorities in Paramitha were massacred.*”, “*According to the Greco-Turkish treaty, for the exchange of population, 10 thousand Chamerians were forcibly sent to Turkey, but this exchange was forced to be stopped after protests in the Tirana government, protected especially by Italy. It was at that time, in 1925, that 1,500 Albanians were settled in Albania after the Greek persecutions*”.⁵⁰

Administrative data from the Albanian Ministry of Interior and Ministry of Social Assistance (1940-1945). These government records present a serious validation of the documents of the systematic atrocities. United Nations Relief and Reconstruction Administration (UNRRA) participation in providing humanitarian aid to the Albanian Chamarians after their emigration from Greek territory gives further proof that the level of the crisis was on an international scale.

Based on the above references an important letter sent by Napoleon Zervas, a Greek general who writes to his friend Mr. Jani Dani, accepts the authorship of the extermination of the Albanians of Chameria, expressly quoting that:

"Dear Jani

I have long wanted to write to you, but my trip abroad, on the one hand, and the decision I had made to come there to see you, on the other, forced me to postpone it day by day.

Now that I am finding time to write to you in my own hand, I come to thank you, because you never forgot our common struggles, and to tell you that you must, with faith and fanaticism, just as in those difficult years, take into your own hands the work of explaining things to our compatriots.

We must remind our compatriots who liberated Chameria from the Albanians who had been trampling Hellenism on their necks for five hundred years.

This is your job, as it is my job to serve all those about whom you will write to me. I await your letter.

Athens, 4.8.1953 With love

⁵⁰ Official website of the General Directorate of Archives, accessed at the link: <https://arkiva.gov.al/ekspozita/armiq-pa-nje-kauze-programi-cam-pas-luftes-se-dyte-boterore>.

In the 1953 message, Napoleon Zvervas puts emphasis on the freeing of Chameria from the Albanians. This sheds light into a purpose driven objective, which is fueled by ethnicity. Whereas the Greek state justifies their acts as a reaction of Axis collaboration. The Albanian Chamerian community has been accused of collaborating with the German occupiers. However, based on the literature review, there are only 1,100 individuals from the Chamerian minority who were convicted in absentia by the Court in Ioannina based on the accusation of collaboration with the Germans. This information was stated by the Director of the Legal Directorate of the Greek Ministry of Foreign Affairs in 1995, during a meeting of the joint subcommittee on consular legal problems in Tirana.⁵²

Hence, keeping in considerate the fact that these decisions are given in absentia, as well as the fact that this number is small in relation to the population of the Albanian Chamerian community, the justification that the acts taken against the entire Chamerian population (focused mainly on the seizure of property and the removal of citizenship), articulated quite often by representatives of the Greek state, may not constitute a justified reason. Therefore these mass sanctions towards the entire population are a direct violation of the Principle of Proportionality, (concretely meaning that they cannot penalize the entire Chamerian population due to the acts of 1,100 people) and the Principle of Individual Criminal Responsibility. Based on international law, the Greeks state response must have been in commensurate with the proportion of the “crime”. As a consequence, the Greek state reasoning is legally void, it removes individual trials and replaces them with collective punishment in order to eliminate the Chamerian community.

Based on the above referenced acts, in 1946, The Committee of Albanian Chamerians in Exile addressed the United Nations Human Rights Commission, describing the atrocities of the 1913-1944 period as well their request for the intervention of the United Nations and the fulfillment of their demands.⁵³ We will see them in more detail in Chapter 2.

In this paper the “Chamerian issue” is categorized into three main dimensions. The first aspect, relates into determining whether the actions against the Chamerian community during the period of 1912-1945 qualify as crimes against humanity or genocide. Secondly,

⁵¹ To see Napoleon Zeva's letter, see more at the link:

<https://www.panorama.com.al/cliruam-camerine-nga-pushtimi-500-vjecar-shqiptar-zbulohet-letra-e-napoleon-zerves-faktet-e-reja-mbi-qienocidin-grek/>. The article provides also a copy of the original in Greek.

⁵² “Shekulli newspaper 13.09.2005, quoted in Agron Alibali “Constitution, Europe and the Chamerian Minority”, Institute for Chamerian Studies, Iceberg, Tirana, 2013, page 90.

⁵³ Chamerian Albanian Community in Exile Documents, on the Greek persecution of the Chamerians, presented to the United Nations Human Rights Commission, accessed at the link: http://www.albanianhistory.net/1946_Chamerian-Albanians/index.html .

it addresses the community's right to repatriation, focusing on the right to return to their properties from which they were expelled and forced to emigrate, and third parts consist of whether this community has the right to reclaim their properties, which were possessed since the Ottoman period or to receive compensation for them.

1.2 The main actors on the “Chamerian issue”

The main actors of the “*Chamerian issue*” are the Greek Government, the Chamerian population and Albania, the latter being the country where the Chamerian refugees found shelter. The stance of each actor is of great importance, both for the objectives of this study and in order to understand the essence of the “Chamerian issue”.

The Albanian government, primarily through actions and decisions of political character, has maintained the position that the Chamerian population has been subject to systematic abuses and violations of human rights. Therefore the Greek government should take the necessary measures to address the causes and to minimize the negative consequences. Between 1912-1945, Albania made ongoing efforts to encourage the Greek government to undertake specific measures in that regard. In late 1930, while Albania was ruled by King Zog, the Greek government permitted the opening of some Albanian speaking schools in the Greek controlled Chameria. This small, but important step was very positive in ensuring the right to education of Chamerian children in their native tongue.

Unfortunately the Italian occupation of Albania on 7th April 1939 interrupted this process. It is a fact that the Albania of that period was not a consolidated state either from the governmental organization or economic aspect. This state resulted in the fact that, with the exception of the opening of the schools, Albania would take only a declarative stance on the Chamerian issue, and not take into consideration concrete actions from Greece and major forces, which played a decisive role.

Another element used by Albania in order to attract attention to solving the “Chamerian issue” was the use of Albanian diplomacy, which is worth mentioning regardless of the achieved result. Albanian diplomatic figures assigned to Western countries persistently informed the international actors of the time on the progress of the “Chamerian issue” and the necessity of their intervention, but without success. Albania was compelled to submit to the geopolitical interests of the Great Powers, and neighboring countries. All these factors together greatly belittled the tragedy of this people in the favor of the political interests of the time⁵⁴.

Meanwhile on this paper, in order to illustrate the current stance of the Albanian state on the Chamerian issue, an emphasis was brought to the attention during a visit of the former Albanian prime minister Ilir Meta, at the end of 1999, during his meeting with the great prime minister, Kostas, Simitis, which however received a negative response. The controversial Chamerian issue

⁵⁴ Ibid., Blerina Sadik op.cit, page 176-188.

has remained dormant during recent years and none of the post-war Albanian governments, communist, democratic or socialist ones, have ever dared to make it a key issue in the bilateral relations with Greece.⁵⁵ **Nevertheless, considering Albania's integration process into the EU, as well as the improving profile of Albania on the international stage, we assess that Albania has now the chance to discuss the resolution with Greece, on the Chamerian issue, and if possible, Albania can mediate with key international countries so that they can raise this issue with Greece.**

Concerning the “*Chamerian issue*” the position of Greece is contrary to that of Albania. While the Albanian government and the Chamerian people attempted to demonstrate the injustices committed against them in every form, Greece sought to justify them by arguing that the ones acting against these people were not members of the Greek army, but Greek bands. Therefore, in 1920, on the French newspaper “*Le Rappel*”, this fact was shortly reported, declaring that the abuse of the local people was performed by the Greek bands, the activity of which had increased since 1914.⁵⁶

The Greek state continued their denial as stated in their public statement of 2018 declared that: *“We categorically deny the declarations made by Albanian officials in relation to the supposedly “Chamerian” issue in the discussions between Greece and Albania. It is one thing that the Albanian party attempts to draw attention to the matter and another one that the issue can be accepted for discussion. We call on the Albanian party to not create issues that get in the way of sincere and constructive dialogue that is underway. A dialogue that thanks to the efforts by both parties, is aiding considerably the improvement of the relationship between Greece and Albania and has already given results beneficial to both countries and their citizens.”*⁵⁷

It also needs to be highlighted that the reason behind the long citation throughout this paper as also mentioned in the methodology section, is due to the fact that this topic is highly sensitive and that the legal state of war between Greece and Albania is still in force. The decision to implement the statement without paraphrasing is a methodological procedure designed to safeguard as to the evidence across this paper is of high value, and transparency is key for a professional judicial assessment.

As referred above the “*Chamerian issue*” assumes one meaning for Albanian and Chamerian people and a diametrically opposite meaning for Greece. Naturally, Albania maintains that

⁵⁵ Last accessed on 17.06.2025, at the link: <https://albanianstudies.weebly.com/Chamerian-issue.html>

⁵⁶ Le Rappel 1920, April 19 (no author), cited in Blerina Sadik, “The Chamerian Issue: A Historical–Legal Perspective” (1913–1939), p. 177, last accessed on 17.06. 2025, at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf.

⁵⁷ Announcement of the Ministry of Foreign Affairs of Greece regarding the statements of Albanian officials on the “Chamerian” issue, accessed at the link: <https://www.mfa.gr/en/ministry-of-foreign-affairs-announcement-on-statements-from-albanian-officials-regarding-the-Chamerian-issu>

Greece should accept responsibility for human rights violations undertaken against the Chamerian people, which will be examined later on whether they constitute a crime against humanity or genocide. Consequently, these people residing in Albania shall have the right to return to their territories and reclaim the propriety rights they lost after WWII because of the Greek political decisions.

Meanwhile, Greece remains unwavering in refusing to discuss the “*Chamerian issue*” at diplomatic/political level. Therefore it remains more difficult for it to be discussed in the framework of seeking a solution, a framework for which a prerequisite is the acknowledgment of the human rights violations against the Chamerian population between 1912-1945. The Greek side arguments will be analyzed in the later chapters.

In these circumstances international law becomes particularly important, to the extent that it is binding on subjects that presumably abide by it, the analysis of which follows in greater detail.

2. The issue of “genocide” and crimes against humanity

At the time the atrocities and other human rights violations against the Chamerians were committed (1912 – 1945) the Genocide Convention did not exist. From a juridical point of view this paper does not have the intention to apply the concept of Non- Retroactivity for atrocity crimes but to use its criteria as an evaluation model in order to classify these acts of violence. Through the inspection of , as used in human rights law, *actus reus* and *mens rea*, meaning the physician crimes and mental intent, this paper and especially this section seeks to analyse if the actions taken against the Chamerian community can meet the boundary in order to be be categorised as genocide/crimes against humanity.

2.1 A general overview on the notion of the criminal offence

With regards to the Albanian legal system and their domestic criminal law doctrine, they analyse a criminal offense based on four pillars: object, objective element, subject and subjective element.⁵⁸ In international criminal law a more specific structure is required. In international law, Genocide and Crimes against Humanity differ from simple domestic criminal trial because the focus shifts towards the government plan of action. These types of crimes demand evidence that the violence constituted a systematic attack on non-combatants. As for Genocide, the notion is towards the elimination a specific group based on ethnicity, religion, national, racial. Through the usage of International Criminal Court standards, in this section it will be analysed weather these acts towards the Chamerian population by the Greek government were violations of international law under the legal notion of genocide/crimes against humanity.

⁵⁸ I. Elezi, S. Kaçupi, M. Haxhia, Commentary on the Criminal Code of the Republic of Albania, General Part, Kumi Publications, Tirana 2013, p. 60

2.2 Acts undertaken against the Chamerian population

As previously noted in the first chapter of this paper, in 1946, the Committee of Chamerian Immigrants in Albania addressed the Human Rights Commission of the United Nations, by submitting some research accompanied with the description of some of the actions against the Chamerian population between 1913-1939. More precisely, the content of this declaration explains that:

*“Beginning with the Greek occupation of Chameria on February 23, 1913, the gang of Deli Janaqi, incited and assisted by the local authorities, **massacred without cause whatsoever 72 men, in the brook of Selani, district of Paramithia.** This massacre marked the beginning of the drive to exterminate the Albanian minority, and made clear the orientation of Greek policy toward our population. The hounding, persecutions, imprisonment, internment, tortures, and plunder carried out on the pretext of disarming the population in the years 1914-1921, the terrorist actions of outlaws, and the provocations of Gjen Baire in 1921, reveal the reality of the sufferings to which our population was subjected during the Greek occupation.*

...In 1922-1923, the Greek authorities decided to displace the Moslem element of Chameria, in exchange for the Greeks in Asia Minor, on the pretext that they were Turks. These act of the Athenian authorities ran into opposition on our part and the intervention of the League of Nations which, upon ascertaining the Albanian nationality of our people, rejected the decision of the Greek Government. But despite the intervention of the League of Nations, and the solemn commitments undertaken by the Greek Government in Lausanne on 16 January 1923, the authorities in Athens continued their policy of expulsion. They resorted to every device to make it difficult for the Albanian element to remain in Chameria, and confiscated 6,000 hectares of land owned by hundreds of families in Dushk, Gumenica, Kardhiq, Karbunara, and others, without compensating them in the least. The government in Athens settled the immigrants from Asia Minor in Chameria, with the intention of mixing it with Greeks and creating conditions that would lead to the emigration of the native Albanian population. Entire families were forced to abandon their birthplace and migrate to Turkey, Albania, America and elsewhere, and villages like Petrovica and Shëndellia were deserted completely by their Albanian inhabitants.

*In the war against Fascism, and more precisely at its conclusion, the reactionary Monarchist-Fascist forces of Llaka of Suli, which were created by the reaction to serve the occupier under the command of General Napoleon Zervas, turned on and **treacherously massacred the Moslem Albanian inhabitants of Chameria.** At that time, when the troops of ELAS [National Popular Liberation Army] and our troops were committed to fighting the Germans, the leadership of EDES [National Troops of Greek Guerillas], in league with the Germans, maneuvered to gain positions to fight a civil war. And when our forces, in keeping with the spirit and decisions of the protocol of Caserta (Sarafis-Zervas), August 1944, implemented the orders of the Joint Command in pursuit of the Germans, General Napoleon Zervas,*

commander of the resistance forces in Epirus (EDES), gave orders to massacre the innocent population of Chameria.

The forces of the 10th Division of EDES, under the command of Col. Vasil Kamaras, and specifically the 16th Regiment of that division, which was led by Kranja and his aides Lefter Strugari, attorney Stavropoulos Ballumi Zotos, the notorious criminals Patazejt and others, entered the town of Paramithia on 27 June 1944. ...Defenseless men, women and children became targets for the Greek Monarcho-Fascists. The number of the massacred in the town of Paramithia and vicinity reached 600 souls.

On 28 July 1944, the forces of 40th Regiment, commanded by Agores, entered Parga and massacred 52 men, women and children.

The forces of EDES under the command of Theodhor Vito, Ilija Kaqo, Hristo Mavrudhi, Hristo Kaqo, Hari Dhiamanti and others, first encircled the town of Filat, then on Saturday morning of 23 September 1944, entered the town. The same day they also entered Spatar. They plundered and seized all of the families, and whatever else they found. On the eve of September 23 and the dawn of September 24, 1944, the forces commanded by Kranja, Strugari and others. As soon as these forces arrived, the massacres began. Forty-seven men, women and children were massacred in Filat, while 157 were killed or missing in Sparta, many of whom had gone there from other villages. All of the young women and girls were abused and raped by Zervas criminals. A few days later the Monarchist-Fascists rounded up all of the men that remained, and following the decision of a kangaroo court, consisting of Koçinja – president, Staropull – prosecuting attorney, and four other members, 47 innocent Albanians were massacred. In Granica near Filat are buried the corpses of 46 persons who were slain with knives, and 45 others on the plain bordering the field of Xhelo Meto.

Other families were wiped out, including parents, children and babies in their cribs. Women and young girls were raped. Hundreds of declarations by those who survived, describe the killings and endless suffering. They make plain the crimes and aims of the Monarcho-Fascists in Chameria.

Here are some examples:

Sanie Bollati of Paramithia was burned alive with gasoline, after her breasts were cut off, and her eyes were plucked out. Ymer Murati was murdered and his body was chopped up in Paramithia.

In the house of Sulo Tari, more than 40 women. Çili Popova from Popova, wearing a military uniform, and a group of soldiers, entered the house, seized the prettiest women and girls and began to rape them in another room. The screams of the girls and the women were deafening. This debauchery continued all night. Seri Fejzo, Fizret Sulo Tare and others, were victims of their baseness.

Hilmi Beqiri of Filat was wounded in front of his family and removed from there, as the attackers took off. Wanting to shelter him, the family brought him over to the dentist Mavrudhiu. He kept him for a few hours, but later sent word to have him taken away. The family then took him to Stavro Muhaxhiri, after which they went over to Shuaip Metja, where many other families had gathered. The Andartes [Greek irregulars] were informed about this, and they went over and seized him, and after pulling his gold teeth with pliers, killed him. Malo Muho, an 80-year-old man, who had been ailing for four years, was butchered with a hatchet in front of his wife. His brain splattered on the lap of his wife, who gathered it together, and after covering him with a quilt, ran away.

Abdyl Nurqe was seized in Sparta and taken barefooted to Filat, where he was dragged through the streets of the town, and finally killed in front of the house of Nidh Tafiqi.

The family of Lile Rustemi from Sullashi, numbering 16 persons, most of them children, was totally wiped out, without anyone being able to survive.

Xhelal Miniti of Paramithia was beheaded with a bayonet over the body of mufti Hasan Abdullahu.

Sali Muhedini, Abedin Bakos, Muhamet Pronja and Malo Sejdiu had their fingers, nose, tongue, and feet cut off, and while they screamed with pain, Andartes of Zervas sang the song of their commander, and rejoiced as they witnessed this scene of terror. In the end, they hung them with butchers' grappling irons.

The following is the declaration of Eshref Himi, a resident of Paramithia, concerning the massacres in Paramithia:

"On Tuesday, 27 June 1944, at 7 in the morning, the Greek Monarcho-Fascists entered Paramithia, commanded by Col. Kamora, Major Kranja, Captain Kristo Stavropulli, an

attorney; Captain Lefter Strugari, attorney; sub-lieutenant Nikolla Çenos, and others. As soon as they entered the city, the order was given that no one should leave, because no one's honor, liberty or property would be threatened in any way. Immediately in the afternoon, there began the arrest of men, women and children, and thievery as well. By next morning all the men were murdered."

"After imprisoning me for four days, they let me go, so as to bury the dead. On the site called 'The Church of Ajorgji', I was able to identify five of the bodies. The others were beyond recognition, on account of the tortures inflicted on them. The five victims I was able to identify were: Met Qere, Sami Asimi, Mahmut Kupi, Adem Beqiri, Haki Mile. Two days later, they sent me over to 'Golataj', near the house of Dhimitër Nikolla, where they had murdered eight people. I could not recognize them, because they had cut them to pieces. All around there were corpses of people. A woman by the name of Sanie Bollati was subjected to frightful tortures and burned

alive with gasoline. This tragedy took place on Wednesday, while on Friday morning, her body was removed, covered with a blanket by her mother and two townspeople, and placed in a cellar by order of the Monarcho-Fascists, who would not let anyone to see her. The wretched woman died there five days later. By then, her cadaver was full of maggots.

“All of the things I declare here, I have seen with my own eyes. At first, I hid for five days in the attic, but was arrested by the Monarcho-Fascists and turned over to Major Kranja who, after questioning me briefly, ordered that I be imprisoned. In prison I found 380 persons, including women and children. One hundred twenty of them died of starvation. Four people and I were in prison for 15 days, after which they transported us to Preveza, and from there to Janina, where we stayed for 40 days. There we were subjected to indescribable tortures. We were freed after the arrival in this town of troops of the EAM [National Liberation Front].”

Dervish Sulo from the village of Spatar in [the district of] Filat, describes the massacres in Spatar as follows: “In the morning of a Saturday in September, 1944, the entire population gathered in front of the (Spatar) village mosque. The soldiers began seizing and raping women, girls, and even old women. Paçe Çulani, 50 years of age, was raped, her hair was cut and even her ears, and finally she was killed in her own orchard, in the vicinity of Muço. In our house was installed the family of Sako Banushi from Skropjona, which numbered eight women, men, and children. After raping the women, whose breasts were pierced with knives, all were massacred....

“In the house of Damin Muhameti, 5 women and 3 children were killed... In the house of Fetin Muhameti, Hane Isufi and another woman were tortured and raped...

In the house of Dule Sherifi, they cut off the heads of 80-year-old Sulejman Dhimicë and his wife. In the house of Meto Braho, 20 persons, including men, women and children, were burned alive... Kije Nurçia, 70 years of age, was knifed to death... In the vineyard of Zule and the garden of Avdyl Nurçe, I saw 20 people who had been massacred. In the house of Haxhi Latifi, the daughter of Haxhi Gulani was raped, while in the dwelling of Mejdi Meto, Hava Ajshja was raped, and Nano Arapi was both raped and killed.”

According to statistics available to date, the victims and the missing persons among the Albanian minority in Greece, during the massacres of 1944-1945, number 2,877, broken down as follows:

Filat and vicinity, 1,286; Gumenica and vicinity, 192; Paramithia and vicinity, 673; and Margellëç and Parga, 626. This was the fate of all those who were unable to flee Chameria, with the exception of a few women who are today living witnesses of the chilling massacres in Paramithia, Parga, Spatar, and Filat. The words that come from their mouths make clear the naked criminality and barbaric acts, organized by the Greek Monarcho-Fascist reaction in Chameria.

This carnage, inspired by the basest sentiments of chauvinistic and religious hatred, resulted in the displacement of nearly 23,000 Chamerians, who afterward found shelter in Albania under

the most miserable conditions. A total of 68 villages with over 5,800 houses, were seized, destroyed and burned down. An account of the damages reveals that the Monarchist-Fascist forces of Zervas seized the following assets left behind [by the Chamerians] in Chameria: 17,000 heads of sheep and goats, 1,200 heads of cattle, 21,000 quintals of cereals, and 80,000 quintals of [olive] oil; plus the produce of the year 1944-1945, which totaled 11,000,000 kg. of cereals, and 3,000,000 kilograms of [olive] oil. During the exodus, 110,000 sheep and goats, and 2,400 cattle died or were lost.”⁵⁹

*Meanwhile, with the intention of analyzing the political-religious strategy of the Greek authorities towards Albania, another source states that: “**The whole chauvinistic Greek work is not just a political platform but a strategy for the ethnic attack against Albanianism.** This has always been manifested with several methods and practices. Beginning from the Trojan Horse in Albanian politics, however let us continue with concrete facts:*

In Delvina, an elderly Chamerian woman rescued during those years says that the Zervas solders would kill children and elderly and violated the young woman or made them commit suicide. Children were thrown at fires and young girls chose to be killed instead of violated. The elderly woman had witnessed her husband and two sons being executed by Greeks in August 1944 in Filat. Greek bands destroyed 85 mosques and then killed 2000 people on March 7, 1944 at the massacre done at Filat.it is difficult to estimate the precise statistics for the number of people that died of hunger and cold by taking refuge in the mountains of Delvina and Vlore, in Southern Albania.”⁶⁰

“According to the testimony of a witness, on the hot days of June 1944, British Military officers had to intervene to stop one of the most inhumane acts of the {Chamerian} tragedy. Before expelling them to Albania, the Zervist soldiers gathered all the women of Paramithia in a city prison. One late night several Zervist bandits entered the prison with the intention of raping the Chamerian women. However Chamerian elderly women surrounded the young girls and protected them with their bodies. The ongoing struggle and the desperate cries of the elderly women and young girls attracted the attention of the British soldiers, whose offices were near the prison. They intervened immediately and ordered to stop this tragedy.”⁶¹

The systematic atrocities against the Chamerian population that were described in detail ,specifically the targeted elimination of civilians, provide prima facia bases for the legal classification of these acts as genocide under international law.

⁵⁹ The document of the Albanian Chamerian Comitee in Migration, on the Greek persecution of the Chamerians, presented to the Human Rights Commission of the United Nations, accessed through the link: http://www.albanianhistory.net/1946_Chamerian-Albanians/index.html

⁶⁰ Albert LI, Kotini, “Chameria denounces”, Fllad, 1999, p. 27, 28.

⁶¹ Agron Alibali “The Constitution, Europe and Chamerian Minority”, Institute of Chameria Studies, Iceberg, Tirana, 2013, p. 99.

Let us examine next the substantive criminal-legal analysis of the suspected criminal acts, referred to by the witnesses and descendants of the victims.

2.3 The criminal act of genocide

2.3.1 Definition of the criminal act of genocide

In order to create a complete analysis or more precisely a connection between the factual situation of the period 1913-1944 and the legal international framework, it is essential that first the description and the limits of performing the criminal act of genocide are clarified. The subsequent step is to manifest these elements/criteria with the practices carried out during 1913-1944 against the Chamarian population.

From this point of view, by referring to the official page of the United Nations, we emphasize that: *“The word “genocide” was first coined by Polish lawyer Raphaël Lemkin in 1944 in his book Axis Rule in Occupied Europe. It consists of the Greek prefix genos, meaning race or tribe, and the Latin suffix cide, meaning killing. Lemkin developed the term partly in response to the Nazi policies of systematic murder of Jewish people during the Holocaust, but also in response to*

*previous instances in history of targeted actions aimed at the destruction of particular groups of people. Later on, Raphaël Lemkin led the campaign to have genocide recognized and codified as an international crime.”*⁶²

Meanwhile, referring to the Convention on the Prevention and Punishment of the Crime of Genocide, approved and proposed for signature and ratification or admission from the 260 A (III) General Assembly Resolution of December 9, 1948 (entered in force on January 12, 1951, in accordance with article XIII), which recognizes genocide as an international crime, *“...genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.”*⁶³

Moreover, if we refer to the Rome Statute, *“...”genocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to*

⁶² See the summarized description of “genocide” at the official webpage of the United Nations, accessed for the last time on 18.06.2025, through the link: <https://www.un.org/en/genocide-prevention/definition>

⁶³ Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide approved and proposed for signature and ratification or admission from the 260 A (III) of the General Assembly of December 9, 1948.

prevent births within the group; (e) Forcibly transferring children of the group to another group."⁶⁴

Therefore, genocide was first recognized as a criminal offence according to the international law in 1946 by the United Nations General Assembly (A/RES/96-I). This criminal offence was codified as an independent crime in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Since April 2022, the Convention has been ratified by 153 states.

As referred above, precisely related to the description of the crime of genocide, we note that it is the same description both in the text of the Convention of Genocide, as well as in the content of the Rome Statute of the International Criminal Court. Because of this legal provision of a complete international nature, many states condemn genocide in their internal legislation, including Albania. Under its substantive law Albania has stipulated that: *"The execution of a premeditated plan aiming at the total or partial destruction of a national, ethnic, racial or religious group directed towards its members, and combined with the following acts, such as: intentionally killing a group's members, serious physical and psychological harm, placement in difficult living conditions which cause physical destruction, applying birth preventing measures,*

as well as the obligatory transfer of children from one group to another, is sentenced with no less than ten years of imprisonment, or with life imprisonment."⁶⁵

However, there are legal systems that have not incorporated it into the domestic legislation. For these states, the International Criminal Court (ICC), due to the gravity of these crimes, and especially, because of the consequences they entail as a flagrant violation of fundamental human rights, has continuously affirmed that the Convention manifests principles that are part of the general international customary law. This means that, regardless of whether the states have ratified the Genocide Convention, they are all obligated to treat genocide as a punishable crime in accordance international right principles that classify it as such. ICC has also emphasized that the prohibition of genocide consists a derogatory norm of the international law (*ose ius cogens*) and therefore does not permit any derogation from it.

In this state of obligation to comply, it is irrelevant whether Greece categorizes, in its internal legislation, the crime of genocide, as it remains obliged to comply with the international legal framework regarding genocide.

⁶⁴ Article 6 of the Rome Statute, last accessed on June 18, 2025, through the link: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

⁶⁵ Article 73 of law no. 7895, dated 27.01.1995 "Criminal Code of the Republic of Albania", updated.

2.3.2 The substantive and procedural criminal-law analysis of the crime of genocide

Having analysed and established the framework of a criminal offense, it is evident that the criminal act exists only if the conditions of performing it are completed when its four elements are fulfilled in a cumulative way. These elements are the object, the objective element, the subject and the subjective element. In case of not fulfilling one of the four elements, the criminal act is not considered to have been performed. Below it will be analyzed the criminal-law analysis of substantive and procedural character of the criminal act of genocide and then, in accordance with the specific case and its circumstances, assess the manner in which this crime appears to have been carried out in practice. Through careful examination of the analysis and elements of this criminal offence, the analysis emphasises on the following:

Regarding the intended group, it is clear from the disposition itself that the victims of genocide are targeted deliberately and not incidentally, on the basis of their actual or perceived membership in one of the four groups protected by the Genocide Convention. This means that the object of destruction is the group as such and not merely its individual members. Genocide can also be committed against only one part of the group, provided that this part is identifiable (including a geographically defined area) and “substantial”.⁶⁶

Therefore, the fact that protection is directed toward the target group makes this criminal offence and international provision with a clearly defined object. Considering the fact that the offences suspected as genocide against the Chamerian population during 1913-1945, were directed only to the Chamerian population as a specific national, ethnic, and religious community, we assess that the first element required for the commission of the criminal offence of genocide, its object, is fulfilled.

From the objective element, the criminal offence of genocide is committed through acts or activities that extensively include the murder of the group members, causing serious physical or mental harm to the group members, deliberately inflicting living conditions that would result in its partial or destruction, imposing measures intended to prevent births within the group, as well as forcibly transferring children from one group to another. However, beyond the description above of the form of conduct, it is assessed that every form mentioned above, encompasses a number of offences and actions that are materialized in practice in fulfilling the objective. Taking this characteristic into account, and also relying on the information from the testimonies cited above, considered as accurate and truthful, below it is examined a more detailed analysis of these offences in regard to the international legislation. Through this legislation it can determine whether the objective criteria required to constitute the offenses as genocide.

⁶⁶ United Nations Official page, accessed through the link:
<https://www.un.org/en/genocideprevention/genocide.shtml>.

Thus, the Rome Statute, in Article 6, establishes that: killing group members constitutes one of the ways of committing genocide. This manner of committing genocide is materialized in practice when the testimonies refer that:

“...other families were exterminated, including parents, children and infants in their cradels...; ... while 157 were killed or missing in Spatar...;

Sanie Bollati of Paramithia was burned alive with gasoline, after her breasts were cut off, and her eyes were plucked out... Ymer Murati was murdered and his body was chopped up in Paramithia

...Hilmi Beqiri of Filat was wounded in front of his family and left there.The Andartes [Greek irregulars] were informed about this, and they went over and seized him, and after pulling his gold teeth with pliers, killed him.

...Malo Muho, an 80-year-old man, who had been ailing for four years, was butchered with a hatchet in front of his wife

...was seized in Spatar and taken barefooted to Filat, where he was dragged through the streets of the town, and finally killed...;

...The family of Lile Rustemi from Sullashi, numbering 16 persons, most of them children, was totally wiped out, without anyone being able to survive...;

...Xhelal Miniti of Paramithia was beheaded with a bayonet...;

...Sali Muhedini, Abedin Bakos, Muhamet Pronja and Malo Sejdiu had their fingers, nose, tongue, and feet cut off, and while they screamed with pain, Andartes of Zervas sang the song of their commander, and rejoiced as they witnessed this scene of terror. In the end, they hung them with butchers' grappling irons...;

...there began the arrest of men, women and children, and thievery as well. By next morning all the men were murdered...”

...In the house of Damin Muhameti, 5 women and 3 children were killed.. ”⁶⁷

Thus, again on article 6 of the Rome Statute, causing of serious bodily or mental injuries to the group is considered as another way of committing the criminal offence of genocide. This manner is materialized in practice when the testimonies refer that:

⁶⁷ The document of the Albanian Chamerian Committee in Migration, on the Greek persecution of the Chamerian, presented to the Human Rights Commission of the United Nations, accessed through the link: http://www.albanianhistory.net/1946_Chamerian-Albanians/index.html

“...entered Parga and massacred 52 men, women and children...;

...Forty-seven men, women and children were massacred in Filat, Sanie Bollati of Paramithia was burned alive with gasoline, after her breasts were cut off, and her eyes were plucked out...;

...Hilmi Beqiri of Filat was wounded in front of his family and removed from there.....The Andartes [Greek irregulars] were informed about this, and they went over and seized him, and after pulling his gold teeth with pliers, killed him...;

...Malo Muho, an 80-year-old man, who had been ailing for four years, was butchered with a hatchet in front of his wife...;

...was seized in Spatar and taken barefooted to Filat, where he was dragged through the streets of the town, and finally killed ...;

...Sali Muhedini, Abedin Bakos, Muhamet Pronja and Malo Sejdiu had their fingers, nose, tongue, and feet cut off, and while they screamed with pain, Andartes of Zervas sang the song of their commander, and rejoiced as they witnessed this scene of terror. In the end, they hung them with butchers’ grappling irons...;

...In the house of Meto Braho, 20 persons, including men, women and children, were burned alive...

...The others were beyond recognition, on account of the tortures inflicted on them...;

...I could not recognize them, because they had cut them to pieces...;

...A woman by the name of Sanie Bollati was subjected to frightful tortures and burned alive with gasoline...;

Paçe Çulani, 50 years of age, was raped, her hair was cut and even her ears, and finally she was killed in her own orchard...”⁶⁸

Moreover, Article 6 of the Rome Statute categorizes the intentional imposition of such conditions within the intended group that can bring about physical or mental destruction, as well as the forcible transfer of individuals from one group to another as forms of committing a criminal offence. This manner is reflected in practice when the testimonies refer that:

⁶⁸ The document of the Albanian Chamerian Committee in Migration, on the Greek persecution of the Chamerian, presented to the Human Rights Commission of the United Nations, accessed through the link: http://www.albanianhistory.net/1946_Chamerian-Albanians/index.html

“...They resorted to every device to make it difficult for the Albanian element to remain in Chameria, and confiscated 6,000 hectares of land owned by hundreds of families in Dushk, Gumenica, Kardhiq, Karbunara, and others, without compensating them in the least. The government in Athens settled the immigrants from Asia Minor in Chameria, with the intention of mixing it with Greeks and creating conditions that would lead to the emigration of the autochthonous Albanian population. Entire families were forced to abandon their birthplace and migrate to Turkey, Albania, America and elsewhere, and villages like Petrovica and Shëndellia were deserted completely by their Albanian inhabitants.”⁶⁹

Regarding above, it is observed a correlation between the actions, offences committed against the Chamerian population during 1913-1945, with the offences, actions specified under the crime of genocide. This correlation supports the conclusion that the objective element of this criminal offence has been fulfilled. However, this is insufficient, considering that, as analyzed earlier for its commission, the fulfillment of the subject element and subjective side is required. These elements correlate with the characteristics of the performer of the criminal offence. This is essential for establishing criminal liability, as well as the existence of the specific intent, namely, the complete or partial destruction of a national, ethnic, racial, or religious group.

Regarding the subject element of this criminal offence, it is noted that the subject can be general. They must have reached the age for holding criminal liability and be able to understand the casual connection between his actions and the potential consequences thereof. The Conventions provision is not explicit concerning the perpetrator of the criminal act, leaving open the question whether this crime can be committed by individuals or states. The International Criminal Court has answered this discussion in the case of the analysis for: “The implementation of the convention for the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina against Serbia and Montenegro”, dated September 26, 2007, the content of which analyzes:

“In the view of the Court, taking into account the established purpose of the Convention, the effects of Article I is to prohibit States from themselves committing genocide. Such a prohibition follows, first, from the fact that Article I categorize genocide as “a crime under international law”: by agreeing to such a categorization, the States parties must logically be undertaking not to commit the act so described. Secondly, it follows from the expressly stated obligation to prevent the commission of acts of genocide. It would be paradoxical, if States were thus under an obligation to prevent, but were not forbidden to commit such acts through their own organs, or persons over whom they have such firm control that their conduct is attributable to the State concerned under international law. In short, the obligation to prevent genocide necessarily implies the prohibition of commission of genocide. The Court notes that its conclusion is confirmed by one unusual feature of the wording of Article IX, namely the

⁶⁹ Ibid., .

phrase “including those [disputes] relating to the responsibility of a State for genocide or any of the other acts enumerated in Article III”. According to the English text of the Convention, the responsibility contemplated is responsibility “for genocide”, not merely responsibility “for failing to prevent or punish genocide”. The particular terms of the phrase as a whole confirm that Contracting Parties may be held responsible for genocide and the other acts enumerated in Article III of the Convention”.⁷⁰ A more extensive analysis of this issue is done at the article titled “On what Conditions Can a State Be Held Responsible for Genocide” of Paola Gaeta⁷¹

Therefore, the subject of this criminal offence can be both countries and individuals of these states. A state is obliged to exercise its authority in order to respect the rights and freedoms of its citizens and ensure a living environment that does not, in any way, create genocide conditions. The subject of this criminal offence can also be various bodies/organizations of public or private character. Following this reasoning, even though Greece has repeatedly claimed that the crimes were committed by Greece’s irregular army, this country is still subject of genocide against the Chamerian population during 1913-1945.

The final element, **the subjective element**, of the criminal offence of genocide, is explicitly defined in Article 2 of the Genocide Convention, which categorizes the scope of conduct constituting this criminal offence. The subjective element is the complete or partial destruction of a national, ethnic, racial or religious group. Particularly important in the analysis of this element is the content of article 30 of Rome Statute of the International Criminal Court. It states: *Mental element (subjective side) 1. “Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court **only if the material elements are committed with intent and knowledge**. 2. For the purposes of this article, a person has intent where: (a) In relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events. 3. For the purposes of this article, “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. “Know” and “knowingly” shall be construed accordingly.*

Meanwhile, the specification of the “genocidal intention” has received attention even by the Appeals Chamber of International Criminal Tribunal for Rwanda (ICTR), which in the Seromba case held that the genocidal intent could be inferred by circumstantial evidence, (Appeals Decision, March 12, 2008, para. 175-176). The Chamber emphasized that:

“[T] the specific intent of genocide may be inferred from certain facts or indicia, including but not limited to (a) the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or

⁷⁰ For more information check the summary of this decision through the link:

<https://www.ici-cij.org/sites/default/files/case-related/91/13687.pdf> , last visited on 19.06.2025

⁷¹ Paola Gaeta, On What Conditions Can a State Be Held Responsible for Genocide?, *European Journal of International Law*, Volume 18, Issue 4, September 2007, Pages 631–648, visited through the link: <https://doi.org/10.1093/ejil/chm037>.

by others, (b) the scale of atrocities committed, (c) their general nature, (d) their execution in a region or a country, (e) the fact that the victims were deliberately and systematically chosen on account of their membership of a particular group, (f) the exclusion, in this regard, of members of other groups, (g) the political doctrine which gave rise to the acts referred to, (h) the repetition of destructive and discriminatory acts and (i) the perpetration of acts which violate the very foundation of the group or are considered as such by their perpetrators.”⁷²

In this regard, it is certainly difficult to understand the intent of the act, but it is made easier precisely by those elements that the court has identified as circumstantial evidence, which, when assessed together as a whole, clarify the intent underlying the criminal act of genocide.

Furthermore, at the commentary of “Elements of Crimes” of the Rome Statute of ICC, published in 2013⁷³, an explanation is found on the element “the context of acting”, which is a common element in all the crimes presented in the Rome Statute, including the crime of genocide. This element relates to the requirement that the genocidal intent be examined within the context of committing obvious actions according to a continuous/consistent pattern of conduct that has been specified and directed by a certain/specific group. Alternatively, this action may be of such nature that it would, by itself result in destruction of such proportions.

Moreover, according to the commentary “(a) The term “in the context of” includes preliminary actions/acts of a developing pattern of conduct; (b) The term “manifest” requires an objective evaluation; (c) Notwithstanding the general requirement of a mental element specified in article 30, and by recognizing that awareness of the circumstances is generally considered in establishing the genocidal intent, the determination of whether a mental element is required in relation to this contextual circumstance shall be decided by the Court on a case-by-case basis.”⁷⁴

Regarding the judicial interpretation of “context”, according to the International Criminal Court⁷⁵, the “contextual” element will only be considered when the relevant act: *presents a concrete threat to the existence of the targeted group, or a part thereof. In other words, the protection offered by the penal norm defining the crime of genocide as an ultima ratio mechanism to preserve the highest values of the international community is only triggered when the threat against the existence of the targeted group, or part thereof, becomes concrete and real, as opposed to just being latent or hypothetical.*⁷⁶

Following the analysis, we note that the element of “continuous/consistent pattern of conduct” has also been addressed by the International Criminal Tribunal for the former Yugoslavia

⁷²Read “ Practical Guide on Humanitarian Law”, accessed last on 19.06.2025, through the link: <https://guide-humanitarian-law.org/content/article/3/genocide-1/>

⁷³ See the commentary on the link: <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>

⁷⁴ Ibid, page 2.

⁷⁵ The Al Bashir case, check Decision on the Prosecution’s Application for a warrant of Arrest against Omar Hassan Ahmad Al Bashir, Omar Hassan Ahmad Al Bashir (‘Al Bashir’) (IČ-02/05-01/09), 4 March 2009, x 125.

⁷⁶ For further information refer to the comment of the “contextual elements of the crime of genocide” by professor Clasu Cress, last accessed on 20.06.2025, through the link: <https://www.icty.org/x/cases/tolimir/tjug/en/121212.pdf>

(ICTY), in the case “*The prosecutor v. Zdravko Tolimir*”, judgment of December 12, 2012, paragraph 770, where the following is quoted:

*“The Majority recalls that at least 5,749 Bosnian Muslim men from Srebrenica were killed by Bosnian Serb Forces in a period of only several days. **These killings followed a pattern.** Bosnian Serb Forces were deployed to specifically selected remote locations to take part in these killings. The vast majority of the killings occurred in an efficient and orderly manner; following some of the largest mass executions in Bratunac and Zvornik between 13 and 16 July 1995, machinery and manpower were swiftly put in place to remove, transport and bury thousands of bodies. These bodies were later dug up and reburied in a further effort to conceal what had occurred. There is no doubt in the Majority’s mind, Judge Nyambe dissenting, and indeed the evidence has demonstrated, 3211 that several layers of leadership were involved in the organization and coordination of the killing operation”.*⁷⁷

For the detailed analysis of the subjective element of the crime of genocide, it is also essential to understand the meaning of the destruction of a protected group “in whole or in part”, for which the European Court of Human Rights (ECHR) has provided a summary of international jurisprudence. In *Vasiliauskas v. Lithuania*, the ECHR stated that:

Paragraph 91: “Article II of the Genocide Convention reads that acts of genocide must be committed with the intent to destroy, “in whole or in part”, a protected group. The Genocide Convention itself provides no indication of what constitutes intent to destroy “in part”.

*Paragraph 94: According to the International Law Commission (ILC), the perpetrators of the crime must seek to destroy a quantitatively substantial part of the protected group: “... It is not necessary to intend to achieve the complete annihilation of a group from every corner of the globe. None the less the crime of genocide by its very nature requires the intention to destroy at least a substantial part of a particular group.”*⁷⁸

Paragraph 96: The final report of the Commission of Experts established pursuant to Security Council resolution 780 (1992) to investigate violations of international humanitarian law in the former Yugoslavia (UN Doc. S/1994/674 – “the Commission of Experts’ 1992 Report on Yugoslavia”) confirmed this interpretation. It held as follows. Destruction of a group in whole or in part does not mean that the group in its entirety must be exterminated. The words ‘in whole or in part’ were inserted in the text to make it clear that it is not necessary to aim at killing all the members of the group.”

Paragraph 98: n Prosecutor v. Goran Jelisić (ICTY-95-10-T, trial judgment, 14 December 1999), the ICTY Trial Chamber, citing in support the ILC Draft Code of Crimes Against the Peace

⁷⁷ The full order can be accessed through the link: <https://www.icty.org/x/cases/tolimir/tjug/en/121212.pdf>

⁷⁸ The project Code of Crime Against the peace and security of people (comment), ILC report in its forty eighth session of 1996, UN Doc. A / 51 / in 10 (1996).

and Security of Mankind of 1996 and the Commission of Experts' 1992 Report on Yugoslavia, held as follows.

"80. ... [I]t is recognised that the destruction sought need not be directed at the whole group which, moreover, is clear from the letter of Article 4 of the Statute. The ILC also states that '[i]t is not necessary to intend to achieve the complete annihilation of a group from every corner of the globe'. The question which then arises is what proportion of the group is marked for destruction and beyond what threshold could the crime be qualified as genocide? ...

*82. Given the goal of the [Geneva] Convention to deal with mass crimes, it is widely acknowledged that the intention to destroy must target at least a substantial part of the group. ... Genocidal intent may therefore be manifest in two forms. It may consist of desiring the extermination of a very large number of the members of the group, in which case it would constitute an intention to destroy a group en masse. However, it may also consist of the desired destruction of a more limited number of persons selected for the impact that their disappearance would have upon the survival of the group as such. This would then constitute an intention to destroy the group 'selectively'. "*⁷⁹

The approach that ICTR has followed concerning the number of the genocide victims is also noteworthy. It held that there is no numerical threshold of victims necessary to prove the commission of genocide.⁸⁰

At the conclusion of the analysis of this crime, with particular emphasis on paragraph 55 of the *Bagilishema* case, ICTR concluded that: *"A crime of genocide is proven if it is established beyond reasonable doubt, firstly, that one of the acts listed under Article 2(2) of the Statute was committed and, secondly, that this act was committed against a specifically targeted national, ethnical, racial or religious group, with the specific intent to destroy, in whole or in part, that group."*⁸¹ as well as the Practical Guide to Humanitarian Law, which specifies that: *"It is this specific intent that distinguishes the crime of genocide from other crimes such as large-scale murder of civilians (Kayishema and Ruzindana, Trial Judgment, 21 May 1999, para. 91). Genocide, therefore, invites a two-pronged analysis: (1) the prohibited underlying acts, and (2) the specific genocidal intent or dolus specialis (Bagilishema, Trial Judgment, 7 June 2001, para. 55; see also Akayesu, Trial Judgment, 2 September 1998, paras. 498, 517–522)."*⁸² it is concluded that:

⁷⁹ Decision of ECHR "Vasiliauskas v. Lithuania", application no. 35343/05, 20 October 2015, accessed through the link: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-176467%22%7D>

⁸⁰ The *Seromba* case, Trial Judgment, 13 December 2006, para. 319; the *Bagosora et al.* case, 18 December 2008, para. 2115; the *Simba* case, 13 December 2005, para. 412; the *Muvunyi* case, 12 September 2006, para. 479; as well as the *Muhimana* case, 28 April 2005, para. 514.

⁸¹ ICTR, *Bagilishema* case, June 7, 2011, paragraph 55.

⁸² For more information check the full material through the link: <https://guide-humanitarian-law.org/content/article/3/genocide-1/>

With respect to sanctions, the crime of genocide is defined with particular precision, by being materialized in practice through the two elements analyzed above. First, the subjective element of the crime, which in this case relates to the intent to destroy, partly or completely, a national, ethnic, racial or religious group; and second the objective element of the crime of genocide, which is fulfilled through the commission of a concrete act or action, which comprehensively includes killing the group members, the intentional causing of serious bodily or mental injuries to the group members, intentionally causing of life conditions calculated to bring about its partial or complete destruction, imposing measures intended to prevent births within the group, as well as forcibly transferring children from one group to another. This offence is materialized in practice in the context of an armed conflict, international or not, but it may also occur in a situation of peace. The latter is less common, although still possible. The general concept of genocide is broader than the defined content of the norm under international law.

Returning to the commitment of this crime against the Chamarian population, during 1913-1945 by Greek authorities, entirely based on the above analysis of different academic sources, as well as considering as credible the testimonies of the victims and their descendants, it can be concluded that the material object, the objective element, and the subject of the crime of genocide are fulfilled. However, difficulties arise in concluding whether the subjective element of the criminal offense of genocide is fully satisfied, even though, due to the commission over time, over a sustained period, of acts that constitute the objective element of the crime of genocide, there arises an idea of the fulfillment of the intent to destroy, in whole or in part, the Chamarian population. Certainly, for the purpose of establishing this element, it is important that it be investigated more thoroughly and substantively by the competent institutions.

Based on the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), in the lack of direct proof or a formal government statement, the specific intent can be concluded through systematic action as opposed to a single evidence. The systematic nature of violent acts committed against the Chamarian population through approximately three decades provides strong evidence for coordinated and planned actions rather than accidental violence.

2.4 Crimes against humanity

2.4.1 Description of the criminal offence of “Crimes against humanity”

The United Nations have provided a description of crimes against humanity. On its official website, it is noted that it remains unclear in which context was the term “*crimes against*

humanity” first developed. However, several researchers emphasize the use of this term (or similar terms) from the late eighteenth century or the early nineteenth century, particularly in the context of slaving and slave trade, and also for describing the atrocities associated with the European colonization in Africa and elsewhere. Examples include the cruelties committed by King Leopold II of Belgium in the Congo Free State. Other scholars highlight the Declaration made in 1915 by Allied governments (France, Great Britain and Russia) that would condemn the massive killing of Armenians in the Ottoman Empire, as the origin of the term as a legal designation for a category of international crimes. Since then, the concept of crimes against humanity has evolved through national legal systems and the jurisprudence of international courts including the International Criminal Court (ICC), International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR)⁸³

For the purpose of this Statute, “*crimes against humanity*” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: Murder; Extermination; Enslavement; Deportation or forcible transfer of population; Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; Torture; Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; Enforced disappearance of persons; The crime of apartheid; Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health⁸⁴. Crimes against humanity are defined under Article 7 of the Rome Statute as specific criminal acts carried out as part of systematic attacks directed against any non combat population.⁸⁵ As a consequence the acts of violence targeted to the Chamarian population, identified by mass displacement and systematic oppression, should be examined through this structure in order to decide if they amount to a behaviour pattern issued by the authorities of the state in order to reach their objectives.

Unlike genocide, crimes against humanity have not yet been codified in a dedicated treaty or international law, however there are some efforts in achieving that. It is worth emphasizing that both the prevention of genocide and crimes against humanity are considered peremptory norms of international law. No derogation from it is allowed and it applies to every state. Therefore considering the method in which different legal systems have chosen to sanction the criminal offence of crimes against humanity, we note that, similarly to genocide, for this crime as well,

⁸³ The national page of the United Nations, last accessed on 20.06.2025, through the link:

<https://www.un.org/en/genocide-prevention/definition>

⁸⁴ Article 7 of the Rome Statute of the International Criminal Court.

⁸⁵ Article 7 of the Rome Statute of the International Criminal Court

some countries have chosen to make this criminal offence part of their national law, part of which is Albania as well. Albania in its substantial criminal law provides that: “*Murder, enforced disappearance, extermination, enslaving, internment and expulsion and any other kind of human torture or violence committed according to a concrete premeditated plan or systematically, against a group of the civil population for political, ideological, racial, ethnical and religious motives, shall be punishable to not less than fifteen years of or life imprisonment*”⁸⁶. As for other states, the recognition of crimes against humanity as a peremptory norm of international law, applicable, is sufficient to establish their binding character, including with respect to Greece.

In the light of above, with reference to a comparative assessment on the categorization of genocide, it is concluded that, unlike genocide, the crimes against humanity do not own a conventional codification that would enhance clarity regarding the commission of the offence. However, what can be observed in the body of the provision is the expanded scope of the intended object, which in this case is the civil society, the increasing number of motives for committing the crime, including political reasons, as well all the multiple ways of committing this crime. For these reasons, it is concluded that both crimes reflect high social danger, but because of the above changes, crimes against humanity have an aggressive nature of greater danger.

2.4.2 Substantive and procedural criminal law analysis of the international crime of crimes against humanity

The analytical structure applied to the crime of genocide, focused in the four elements of the criminal offence, it will also be followed for the analysis of the criminal offence of crimes against humanity. Below a detailed point of view of the object is layed out, the objective element, the subject and the subjective element of this criminal offence.

Different from the criminal offence of genocide, the object of crimes against humanity is the protection of the life and wellbeing of whatever population and not only of a specific ethnic, racial, national or regional group as provided for genocide. Regardless of the fact that this criminal offence has a broader object than genocide, it still is a criminal offence with a specific object as genocide.

With regard to the **subjective element**, which relates directly to the materialization of unlawful acts/actions provided by the disposition in practice, we note that the majority of the crimes against humanity are carried out through multiple acts or courses of conduct. These include killing, extermination, enslavement, including sexual slavery, enforced prostitution, forced pregnancy, forced sterilization or any other form of sexual violation of seminal gravity,

⁸⁶ Article 74 of the law no 7895, dated 27.1.1995 “Criminal Code of the Republic of Albania”.

persecution against any group of collectivity identified based on political, racial, national, ethnic, cultural, religious, gender differentiations, as stated in paragraph 3, or other grounds that are globally known as unlawful under the international law, related to every act mentioned in this paragraph or any crime within the jurisdiction of the court, forced disappearance of persons, the crime of apartheid, and other inhumane acts of a similar character that intentionally cause great suffering, or serious bodily or mental or physical harm.

Taking this framework into account, as well as based on the academic sources stated above and the data of the quoted testimonies, considered as credible, a more detailed analysis of these acts in comparison to the international law is observed. Through this law, it can be concluded whether the Greek state is before the fact of fulfilling the objective element of the criminal offence of crimes against humanity.

Accordingly, the Rome Statute, in Article 7, inter alia, provides as an act that constitutes the criminal offence of crimes against humanity, the killing and tortures committed against the civilian populations, as well as other inhumane actions of a similar nature that intentionally cause suffering of serious bodily or mental or physical injuries. These methods of commitment of the criminal offence of crimes against humanity are materialized in practice when academic sources and witness testimonies refer that:

“...Other families were exterminated, including parents, children, and infants in their cradles...;

...while 157 were killed or disappeared in Spatar...”

Sanie Bollati of Paramithia was burned alive with gasoline, after her breasts were cut off, and her eyes were plucked out... Ymer Murati was murdered and his body was chopped up in Paramithia

Hilmi Beqiri of Filat was wounded in front of his family and left there The Andartes [Greek irregulars] were informed about this, and they went over and seized him, and after pulling his gold teeth with pliers, killed him.

Malo Muho, an 80-year-old man, who had been ailing for four years, was butchered with a hatchet in front of his wife

was seized in Spatar and taken barefooted to Filat, where he was dragged through the streets of the town, and finally killed

The family of Lile Rustemi from Sullashi, numbering 16 persons, most of them children, was totally wiped out, without anyone being able to survive.

Xhelal Miniti of Paramithia was beheaded with a bayonet

Sali Muhedini, Abedin Bakos, Muhamet Pronja and Malo Sejdiu had their fingers, nose, tongue, and feet cut off, and while they screamed with pain, Andartes of Zervas sang the song of their commander, and rejoiced as they witnessed this scene of terror. In the end, they hung them with butchers' grappling irons.

there began the arrest of men, women and children, and thievery as well. By the next morning all the men were murdered."

In the house of Damin Muhameti, 5 women and 3 children were killed..."⁸⁷

Moreover, again in Article 7 of the Rome Statute identifies the causing of serious mental or bodily injuries of the group members as another mode of commission of crimes against humanity. A mode of commission which is materialized in practice when the academic sources refer that:

entered Parga and massacred 52 men, women and children...;

...Forty-seven men, women and children were massacred in Filat, Sanie Bollati of Paramithia was burned alive with gasoline, after her breasts were cut off, and her eyes were plucked out.

...Hilmi Begiri of Filat was wounded in front of his family and removed from there.....The Andartes [Greek irregulars] were informed about this, and they went over and seized him, and after pulling his gold teeth with pliers, killed him

...Malo Muho, an 80-year-old man, who had been ailing for four years, was butchered with a hatchet in front of his wife...

...was seized in Spatar and taken barefooted to Filat, where he was dragged through the streets of the town, and finally killed...

...Sali Muhedini, Abedin Bakos, Muhamet Pronja and Malo Sejdiu had their fingers, nose, tongue, and feet cut off, and while they screamed with pain, Andartes of Zervas sang the song of their commander, and rejoiced as they witnessed this scene of terror. In the end, they hung them with butchers' grappling irons...

...In the house of Meto Braho, 20 persons, including men, women and children, were burned alive...

...The others were beyond recognition, on account of the tortures inflicted on them...;

...I could not recognize them, because they had cut them to pieces...;

⁸⁷ Document of the Committee of Chamerian Albanians in exile, on Greek persecution of the Chamerians, submitted to the Human Rights Commission of the United Nations, accessed through the link: http://www.albanianhistory.net/1946_Chamerian-Albanians/index.html

...A woman by the name of Sanie Bollati was subjected to frightful tortures and burned alive with gasoline...

*...Paçe Çulani, 50 years of age, was raped, her hair was cut and even her ears, and finally she was killed in her own orchard,...*⁸⁸

In addition, again in Article 7 of the Rome Statute expressly includes rape as a constitutive act of the crime of crimes against humanity. This form of commission is reflected in practice when the academic sources refer that:

“...After raping the women, whose breasts were pierced with knives, all were massacred....;

...In the house of Sulo Tari had gathered more than 40 women. Çili Popova from Popova, wearing a military uniform, and a group of soldiers, entered the house, seized the prettiest women and girls and began to rape them in another room. The screams of the girls and the women were deafening.

...

...All the women and young girls were abused and raped by the criminals of Zervas...;

*...Other families were exterminated, including parents, children and babies in their cradles. Women and young girls were raped.”*⁸⁹

With respect to both the crime of genocide as well as the crime of crimes against humanity, notice an alignment is noticed between the acts undertaken against the Chamerian population during 1913-1945 and the acts, actions enumerated in the relevant legal provisions. This alignment gives rise to a presumption for the fulfillment of the objective element of this criminal offence. By “presumption” we mean that, for the objective element to be legally established, the above-mentioned acts need to happen under specific circumstances and according to certain criteria, the absence of which preclude the completion of the offence. Accordingly, in order to assess the objective element of this criminal offence, on the upcoming paragraphs a more in detail analysis of the circumstances and the criteria that lead to the completion of the objective element of the criminal offence of crimes against humanity⁹⁰.

⁸⁸ Document of the Committee of Chamerian Albanians in exile, on Greek persecution of the Chamerians, submitted to the Human Rights Commission of the United Nations, accessed through the link: <http://www.albanianhistory.net/1946-Chamerian-Albanians/index.html>

⁸⁹ Document of the Committee of Chamerian Albanians in exile, on Greek persecution of the Chamerians, submitted to the Human Rights Commission of the United Nations, accessed through the link: <http://www.albanianhistory.net/1946-Chamerian-Albanians/index.html>

⁹⁰ For an extensive analysis of the elements of this criminal offence check International Criminal Law & Practice Training Materials of 2018, through the link: <https://iici.global/0.5.1/wp-content/uploads/2018/03/icls-training-materials-sec-7-cah1.pdf>

Pursuant to Paragraph 1, Article 7 of the Rome Statute, the term “**attack**” is defined as a course of action that includes the multiple commissions of the acts referred to in paragraph 1, against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such an attack. Therefore, we will find ourselves before the existence of an attack against the Chamerian population, if the above acts have been committed simultaneously and as a comprising/organic part of the attack. On the basis of the historical data, which attesting to the simultaneous commitment of such acts as, killings, torture and rape, we consider the attack criterion as satisfied.

Furthermore, in the analysis, the terms “**widespread or systematic**” describe the character of the attack, especially its scale. “Widespread” refers to the large-scale nature of an attack, usually identified by the number of the victims. There is no fixed numerical threshold of victims that make an attack “widespread”. “Widespread” could include a massive action, frequent, of a large scale, committed collectively with significant gravity and directed against a substantial number of victims. “Systematic” on the other hand, refers to the organized nature of violent acts and the reoccurrence of similar criminal acts on a regular basis. It includes “a pattern or methodical plan” which is “completely organized by following a consistent model”. The provision does not ask for the simultaneous existence of the attack to be proven as “widespread” and “systematic”, thus because of the conjunction “or” the existence of one of qualities is enough for considering this criterion satisfied.

Accordingly, a crime against a population can be committed as part of an attack of a large scale against a civilian population that results in a significant number of deaths or as part of a regular and methodic violence or crimes involving fewer victims. The attack as a whole, and not the individual crimes of the accused, should be widespread and systematic. Individual crimes need not be widespread or systematic, for as long as the crimes provided as crimes against humanity are part of an attack that is widespread and systematic. However this reasoning does not include random, accidental or isolated acts of violence.

Following this framework, and referring to the above data on the number of the victims of the Chamerian population during the period 1913-1945, the nature of the organization of the violence acts, as well as the consistent repetition of the criminal behavior, we evaluate that the criterion of “widespread or systematic” attack is fulfilled.

The next criterion required for establishing the objective element of the criminal offence of crimes against humanity, is closely related to the object of the attack. The object is any civilian population specified in the provision with the naming: “**addressed against any civil population**”. In its analysis, the term “addressed against” requires that the civilian population constitutes the primary target of the attack, thereby excluding civilians who are merely incidental or random victims. The term “any” emphasizes the fact that crimes against the population can be committed

both against enemy states as well as against the population of the perpetrating state. The term “civilization” refers to the great number of victims and crimes of a collective nature. The provision does not specify for the population to be based on a certain area, since the fact that a certain number of victims have been targeted during the attack, or the individuals have been targeted in such a way that shows that the attack was addressed against a civilian “population” and not against a number of people selected casually, is enough. And lastly, the term “civilian” refers to non-military individuals. Under customary international law, this term is generally interpreted broadly and may include individuals who, at some point, possessed weapons but were not actively participating in hostilities at the time of the attack. Moreover, the fact that the attack may also have affected military personnel does not, in itself, negate the characterization of the targeted population as “civilian”.

In the light of the above-mentioned data concerning the unlawful acts against the Chamerian population during 1913-1945, the criterion “addressed against any civil population” is fulfilled, as the object of the attack was the Chamerian population itself, a civilian population already within the Greek territory.

The term “*on national, political, ethnic, racial or religious grounds*”, which refers to the nature of the “attack”, should not be excluded from the analysis. This criterion does not increase the difficulty of the burden of proof for the prosecuting authority, since according to the ICTY and the ICTR, the prosecution must prove that the ‘attack,’ and not the ‘act’ itself, was of a discriminatory character. Regarding the Chamerian population, it is evident that the attack against it has had religious, ethnic and national motives. These motives become clearer under the light of the above quoted data, that happened during 1913-1945. It begins with the dissatisfaction arising from the division of Albanian territories (ethnic and national motives) at the London Conference, and then later incorporates a religious dimension which becomes more evident in 1923 with the signing of the Treaty of Lausanne.

Finally, the term “*a concrete plan and state policy*” means that the crimes against humanity shall be carried out through the support of a state or organizational policy for carrying out an attack. The plan or the policy does not need to be specified explicitly, to be officially approved or to be approved by the highest level of a state. The plan or the policy can be created by the totality of the practical circumstances, but also with only the approval of state, regional or local bodies. The policy or plan does not need to be a state one and the criteria can be met for as long as the organization carrying out the crimes has a formulated plan and is able to move freely within a certain territory. ICTY states that the customary law does not require proof that the attack was carried out as part of a state policy or plan⁹¹. The existence of a state policy or or plan can be important for proving that the attack was widespread or systematic, or addressed against a civilian society. However, according to the International Criminal Court, the attack shall be

⁹¹ Kunarac case , paragraph 98 and Blaškić case, AJ, paragraph 100.

carried out “pursuant to or in furtherance of a State policy to commit such an attack” and requires that “the state or an organization promotes or encourages actively such an attack against the civilian society”⁹².

Regarding the fulfillment of this element for the acts and actions carried out against the Chamerian population during 1913-1945, referring to the historical data, the fulfillment of the criteria “*concrete plan and state policies*” is achieved through the totality of the practical circumstances in which the “Chamerian issue” has arisen and has been developed. The persistence over time of unlawful acts against the Chamerian population, as well as the persistence of the Greek authorities in pursuing the realization of its objective, demonstrates the fulfillment of this criterion.

On this basis, it is established that the objective element of Crimes against Humanity is satisfied, as the documented violence which include murder, persecution, displacement are part of a widespread and systematic attack targeted specifically towards the Chamerian civilian population.

Therefore the analysis is with the **subject** element of the criminal offence, for which the provision suggests that crimes against humanity can be committed by states and/or individuals. In both cases, when it is completely proven that the actions have been committed by Greece, as well as if it is proven that the unlawful acts have been committed by Greek irregular forces (as has been repeatedly declared by Greece), the subject element of the criminal offence of crimes against humanity against the Chamerian population is considered fulfilled.

For the **subjective element** of crimes against humanity to be considered fulfilled, the perpetrator must “have knowledge of the attack”. The awareness does not need to be proved by direct evidence. “Constructive awareness” is satisfactory for the prosecution to use any circumstantial proof for demonstrating that the accused was aware of the attack.

Accordingly, this element of the criminal offence is also considered fulfilled, because the commitment of the offence with a special intention, according to a deliberate plan, against a specific population, implies awareness of the attack, thereby satisfying the subjective element of the criminal offence of crimes against population.

Upon concluding the substantive criminal law analysis of the crime of genocide and crimes against humanity, regarding the formal, sanctioning, contextual aspect of provisions, we state that the complete provision does not require any modification.

⁹² Article 7 (2) of the Rome Statute and Commentary on the Law of the International Criminal Court no. 85.

Furthermore, it is noticed that the provision of crimes against humanity is a provision with an object, an objective element and scope broader than the one of genocide. Therefore, unlike genocide, crimes against humanity do not require that the victims belong to a specific group, because victim of the attack can be any civilian population, regardless of its affiliation or identity. In the case of crimes against humanity it is not necessary to be proven that there is a general specific intention. A simple aim is enough for committing one of the enumerated offences, with the exception of the offence of persecution, which calls for additional discriminatory intent. As well as, the perpetrator shall be aware of the attack against the civil population and know that his/her action is part of that attack.

With respect to the practical materialization of these two criminal offences against the Chamerian population during 1913-1945, it is evaluated that the formal elements of article 6 and 7 of the Rome Statute are satisfied. However, they are insufficient for stating that we are dealing with the substantial commitment of these criminal offences. **For this purpose, additional evidentiary material is required.** Evidence that must be obtained by the investigative authority in proper compliance with the procedure and procedural criteria prescribed in the relevant acts, which we will examine in greater detail in the following chapter.

Despite the foregoing, a hopeful example for the Chamerian community is the case of the recognition of the Armenian genocide by the Parliamentary Assembly of the Council of Europe. The recognition of this genocide, through which the Ottoman Empire carried out massacres against the Armenian population within its territory, was adopted by the Parliamentary Assembly of the Council of Europe in 2013. As in the case of the Chamerian community, extensive debates happened, both for and against, but after approximately one hundred years, the Assembly recognized it as genocide.

However, in practice the recognition of this genocide reflects some problems, the most important one, the verification of genocide by international court ruling. Considering the Armenian Genocide was recognized internationally by the United States of America, and also by the Parliamentary Assembly of the Council of Europe, will its negation or minimization be protected by this Convention? Different from the Genocide of Holocaust, Rwanda or Hague, the Armenian Genocide was not facing a judicial verification. In 1920, the internal judicial processes were initiated, under the influence of the Allied Powers, through which generals that committed the massacre were convicted for these acts of the Armenian Genocide. But now the case is not linked with the Ottoman Empire but with another state, to which it was difficult to attribute this event. However, the international acts refer that there should not be a final internal decision for the recognition of the acts of genocide, but an international tribunal. Considering that an international tribunal was missing for the Armenian Genocide, it was natural that problems arise for addressing this genocide.

Unlike to every case, is the case of *Doğu Perinçek v. Switzerland*⁹³ in 2005. Doğu Perinçek is a Turkish politician that acts through the Workers' Party of Turkey in Switzerland. During public situations, public demonstrations, he stated that mass expulsions and the massacres committed against the Armenian community by the Ottoman Empire did not constitute genocide and that it was an international lie. The Swiss authorities started criminal prosecution for these declarations and for the negotiation of the Armenian Genocide and the case reached the European Court of Human Rights (ECHR). ECHR held that in this case there was no violation of Armenian dignity. It is unusual how the Court of Strasbourg did not make an analysis on how the judicial verification of this case should be specified. However the Court of Strasbourg considered some elements and other criteria that relate to the nature of the statements, according to which these statements are not capable of inciting violation or hatred against Armenians. Moreover, the context in which it had taken place was considered, the historical, geographical factors, the fact that it was not directly related to the country in which the genocide had happened, or the place where the declaration had happened and therefore, ECHR did not defend these declarations that deny the Armenian Genocide and the ruling against Switzerland is an exceptional case.

In the light of the above, although the Parliamentary Assembly of the Council of Europe recognizes the Armenian Genocide, this recognition does not constitute full recognition according to the requests of international law and neither a recognition that substitutes the judicial decision-making or that produces the effects of such a decision-making. This form of recognition reflects a diplomatic or political character that can serve as a bridge of cooperation for the normalization of the relationship between the parties, the allowance of the activities of a commemorative nature, as well as expression of the institutional will to find a proper equilibrium for the final analysis of the claims of the Chamarian community.

2.5 The comparison between the crime of genocide and crimes against humanity

The Supreme Court of the Republic of Albania has held the position that in the concurrence of criminal offenses, the violation of more than one legally protected relationship gives rise to the existence of more than one criminal offense, and from the perspective of punishment, the legal institute of the merger of criminal offenses will apply, based on the principles of legal and material cumulation.⁹⁴ According to the rule, a single human act leads to one criminal offence, while multiple human acts lead to two or more criminal offences. However, it is possible that the same behavior can apply to multiple criminal provisions, which leads to the concurrence between criminal offences, or the apparent concurrence of the provisions. The concurrence of criminal provisions divides into forms (when the same author, with a single action or omission commits multiple criminal offences) and substantial (when a single author with multiple actions or

⁹³ ECHR, the case of Doğu Perinçek against Switzerland, accessed through the link: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-158235%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-158235%22]})

⁹⁴ For more information check the Unified Decision of the United Colleges of the Supreme Court of Albania No. 3 of 2015.

omissions, commits multiple criminal offences).⁹⁵ Therefore, considering that in the provision of the crime of genocide and that of the crimes against humanity, encompass multiple modes of commission, specifically, the killing or causing of serious bodily or mental harm, as well as because of the above criminal judicial analysis of these criminal offences results approved the reasonable doubt for committing both criminal assaults in the same way, for the effect of applying criminal responsibility to the author of the offences and the individualization of its sentence according to the legislation, the conclusion whether these two offences are in concurrence with each other or not.

According to Albanian jurisprudence, as reflected in several rulings of the United Chambers of the Supreme Court, in order to determine whether concurrence applies or not, one must consider certain conditions and criteria, which have been elaborated in other Unifying Decisions⁹⁶. Given the international nature of the criminal offenses analyzed in this paper, it is also necessary to consider their treatment under international jurisprudence. Thus, according to the German Federal Court of Justice⁹⁷ the criminal offence of genocide and the criminal offence of crimes against the humanity are in concurrence with each other, therefore the perpetrator is prosecuted, tried and sentenced for both of these criminal offences, which stand independent from each other even when committed through the same conduct.

For a more detailed analysis, in the decision the court states that:

It held that the Defendant had committed genocide under section 6 (1) no. 2 of the Code of Crimes against International Law (CCAIL) by knowingly and intentionally causing serious bodily harm to the daughter of the private accessory prosecutor – regardless of the fact that her death was only caused through negligence – and by causing the private accessory prosecutor serious mental harm, with these being perpetrated with the objective of destroying the religious group of the Yazidis as such. In addition, the Higher Regional Court found that he had unlawfully and culpably committed the offence of a crime against humanity resulting in death pursuant to section 7 (1) and (3) of the CCAIL; his conduct, which formed part of the widespread and systematic attack by the IS against the Yazidi civilian population, fulfilled the following constituent elements from the list contained in subsection (1) in respect of both victims: “Enslavement and trafficking” (no. 3), “torture” (no. 5), “causing severe physical or mental harm” (no. 8) and “severe deprivation of physical liberty” (no. 9).

...14 The individual objective modalities of the offence listed under section 6 (1) of the CCAIL only acquire their particular wrongfulness as genocide offences if, as the provision requires, the perpetrator is driven by the intention to destroy one of the protected groups as such in whole or in part. The sought result must be preceded by the perpetrator's subjective intent to commit the

⁹⁵ Official page of the School of Magistrates, accessed through the link:

https://admin.magiistratura.edu.al/uploads/Veprat_penale_te_qendrueshme_dhe_vazhduese_Copy_49d2d11af7.docx

⁹⁶ For more information check “Summary of Unifying Criminal Decisions 1999–2015”, accessed through the link:

https://www.pp.gov.al/rc/doc/vendime_unifikuese_penale_1999_2015_ne%C3%AB_1081.pdf

⁹⁷ Decision of the Federal Court of Justice (Bundesgerichtshof, BGH) 3 StR 230/22, November 30, 2022.

offence – a subjective intent, moreover, which is not necessarily linked to the objective elements of the offence and which may indeed go beyond them.

...37 (3) The Defendant's actions, which caused serious harm to the private accessory prosecutor and Re., were, in conjunction with similar actions by other IS members, suitable to cause the destruction of the religious group of the Yazidi Kurds.

...38 According to the findings made in the Higher Regional Court's judgment, the Defendant's conduct formed part of the centrally planned action against the Yazidis living in the Sinjar region. The private accessory prosecutor and her daughter had been captured during the military attack and subsequently sold as slaves. ... Overall, the actions were suitable to bring about the intended result, i.e. the (partial) destruction of this group as such.

...39 b) The Defendant is guilty of a crime against humanity by causing serious bodily or mental harm resulting in death (section 7 (1) no. 8 and section 7 (3) of the CCAIL).

...40 Based on the findings of the Higher Regional Court, the Defendant intentionally caused at least serious bodily harm to the daughter of the private accessory prosecutor and in any case caused serious mental harm to the private accessory prosecutor herself. He therefore committed offence no. 8 in the list of individual offences under section 7 (1) of the CCAIL. Consequently, for this crime against humanity it is likewise sufficient – but also necessary – that the harm caused to the injured person result in a grave and long-term disadvantage to the person's ability to lead a normal and constructive life.

...41... the Defendant's actions were functionally integrated into this overall offence and that his actions, as he could have predicted, resulted in Re.'s death.

...60 a) With regard to the crimes against humanity resulting in death under section 7 (1) nos. 3, 5, 8 and 9 and section 7 (3) of the CCAIL, the four listed offences committed by the Defendant are deemed to be distinct offences committed by the same conduct: enslavement, torture, causing serious physical or mental harm and deprivation of liberty.

... aa) The fact that the offences listed under section 7 (1) are distinct offences that can be simultaneously committed by the same conduct is clear in particular from the protective purpose and structure of the provision. The crime against humanity differs in this respect from genocide, where the described forms of commission do not constitute independent offences, but rather are variants of the same offence, with each variant being characterised by the perpetrator's particular intent to commit genocide”⁹⁸

Following this approach, with respect to the acts undertaken against the Chamerian population during 1913-1945, for which the completion of the elements of genocide and crimes against

⁹⁸ Decision of the Federal Court of Justice (Bundesgerichtshof, BGH) 3 StR 230/22, November 30, 2022.

humanity has been established above, we state that due to the criminal liability, the perpetrator of the criminal offences (when the same author is responsible) will be liable for both the commitment of genocide and the crimes against humanity. These two criminal offences of international nature stand therefore in concurrence with each other.

3. Procedural obstacles for the investigation and the adjudication of crimes against the Chamerian community during 1913-1945

The practical implementation of the primary procedural legislation related to the investigation and adjudication of the crime of genocide, crimes against humanity, war crimes and the crime of aggression, has generated debate and revealed problems over years, a part of which apply to the “Chamerian issue” as well. Aiming to bring a summary of it, primarily of a procedural perspective, we have evaluated the treatment of the jurisdiction of the International Criminal Court regarding the acts undertaken against the Chamerian population during 1913-1945, as well as the non-applicability of immunity for holders of high governmental functions to be investigated and tried by the International Criminal Court. Below each one of them will be examined in great detail.

3.1 The jurisdiction of the International Criminal Court in relation to the acts committed against the Chamerian population during 1913-1945

The International Criminal Court was created by the Rome Treaty on 18 July 1998. This international institution/organization plays a crucial role; it focused on the protection and respect of human rights through the criminal punishment of barbaric acts against human beings such as genocide, crimes against humanity, war crimes, and aggression. The nature of this court is complementary to the national criminal jurisdictions.

Thus, in substantive terms, the court has jurisdiction over the most serious crimes of concern to the international community as a whole, namely: (a) The crime of genocide; (b) Crimes against humanity; (c) War crimes; (d) Crimes of aggression⁹⁹. The exercise of this substantive jurisdiction is realized subject to the fulfillment of certain conditions, which are primarily related to the element of ‘time’. The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute, after 2002. If a State becomes a Party to this Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed

⁹⁹ Article 5 of the Rome Statute.

after the entry into force of this Statute for that State, unless that State has made a declaration under article 12, paragraph 3. Thus, as a general rule, the Court has jurisdiction only with respect to crimes committed after the entry into force of the Rome Statute, namely after 2002. Meanwhile, for states that become parties to the Rome Statute after its entry into force, i.e., after 2002, the exercise of the Court's jurisdiction applies only to crimes committed after the Statute enters into force for that state, namely after the ratification of the Rome Statute by the state, unless that state has declared acceptance of the Court's jurisdiction over crimes committed prior to its becoming a party to the Rome Statute. Furthermore, the Court exercises its jurisdiction with respect to one of the aforementioned crimes when such a crime is referred to by a State Party or when the Prosecutor initiates investigations "proprio motu" on the basis of the information received. In such cases, the crime must have occurred either on the territory of a State Party to the Rome Statute, or on the territory of a non-State Party that has accepted the Court's jurisdiction by declaration, or the crime must have been committed by nationals of a State Party or of a non-State Party that has declared acceptance of the Court's jurisdiction¹⁰⁰.

By referring to the above elements of jurisdiction, as well as the circumstances in which the alleged crimes have happened, the crime of genocide and/or the crimes against the Chamerian population during 1913-1945, we state that, in the substantive aspect this court is competent for investigating and has subject-matter jurisdiction. However this observation is insufficient, because the Rome statute, among other provides that, for the jurisdiction of the court to be able to bring effects, it should be accompanied with the completion of some of these sub criteria that are primarily connected with the temporal element of the commission of the acts by the states or its citizens.

Accordingly, in the list of provisions of the Rome Statute, the International Criminal Court may exercise jurisdiction in three cases. Precisely:

- When the crime was committed after the entry in force of the Rome Statute, for States Parties, that is, after 2002;
- When the crime was committed after the entry in force of the Rome Statute, for countries that have become members of this statute after the entry in force of the Rome Statute (2002);
- When a state has declared the acceptance of the jurisdiction for crimes committed prior to the entry in force of the Rome Statute for that state.

These provisions categorically exclude the possibility of investigating and prosecuting alleged genocide and crimes against humanity committed against the Chamerian population, since the acts occurred long before the year in which the Court began to have jurisdiction over such

¹⁰⁰ Article 11,12,13,14 and 15 of the Rome Statute.

international crimes. Specifically, the acts carried out against the Chamerian population belong to the period 1913–1945, whereas the Court’s earliest jurisdiction over these crimes begins in 2002.

Thus, following the current analysis we state one of the declarations of the Rome Statute, which expressively sanctions that: *“This Statute shall enter into force on the first day of the month after the 60th day following the date of the deposit of the 60th instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations. For each State ratifying, accepting, approving or acceding to this Statute after the deposit of the 60th instrument of ratification, acceptance, approval or accession, the Statute shall enter into force on the first day of the month after the 60th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.”*¹⁰¹.

This observation unveils a crucial element for the exercise of the Court’s jurisdiction towards the acts committed against the Chamerian population, namely, the date of ratification of the Rome Statute by Greece. Thus, referring to the data of the International Criminal Court¹⁰², Greece signed the Rome Statute on July 18, 1998, submitted the ratification instrument of the Rome Statute on May 15, 2002, as well as the last updates have been done on March 11, 2003¹⁰³. **This circumstance adds to the conclusion that the International Criminal Court lacks jurisdiction to investigate and prosecute the acts against the Chamerian population, committed during 1913-1945. This conclusion is stated explicitly in the Statute where, no person shall be criminally responsible according to this statute for conduct that occurred before the entry in force of this Statute**¹⁰⁴, known otherwise as the principle of retroactivity of the rule of law. Hence, under this principle, there is a prohibition against the retroactive operation of law, and hence the ICC is unable to hold Greece accountable for the violation of laws that were not yet created or enforced at the time the conflict took place.

3.2 General aspects of the immunity of citizens, high-ranking state officials.

¹⁰¹ Article 126 of the Rome Statute.

¹⁰² Accessed through the link: <https://asp.icc-cpi.int/states-parties/%C3%ABestern-european-and-other-states/greece>

¹⁰³ For more information see the official webpage of the United Nations Treaty Collections, accessed through the link:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&clang=en#ctl00_ContentPlaceHolder1_ContentPlaceHolderInnerPage_dgNotifications_ctl28_divParticipant as well as the

official webpage of the International Criminal Court, accessed at the link:

<https://www.pgaction.org/ilhr/rome-statute/greece.html>

¹⁰⁴ Article 27 of the Rome Statute.

In addition to the conclusion regarding the lack of jurisdiction of the International Criminal Court for the acts against the Chamerian population during 1913-1945, the Rome Statute of the International Criminal Court includes other provisions of particular relevance. Among these, is the principle of non-recognition of immunity of high ranking state officials in proceedings before the court.

Article 27 of the Rome Statute provides that: *“This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence”*.

Many states, including Albania¹⁰⁵, their domestic legal systems provide immunity from criminal prosecution as an integral part of the judicial status for certain officials, starting from the head of the state, members of parliament, members of government, etc. Referring to article 27, of the Rome Statute is evident and clear that this statute does not recognize this judicial status specific for certain subjects. Consequently, immunities of special procedural rules attached to the official post of the person, according to national or international law, shall not prevent the Court from exercising its jurisdiction on such a person.

This statement operates in parallel with the same logic of the statutory provision of non-applicability of crimes within the Court’s jurisdiction¹⁰⁶, where the importance of the investigation and prosecution of crimes in the jurisdiction of the court, as well as the perpetrator’s punishment prevails over the characteristics of the offender and the time elapsed since the commission of the crime. The Constitutional Court of the Republic of Albania in one of its decisions affirmed that: *“The lifting of immunity for the head of state or government has become an established practice in public international law, serving as a strong reference for courts in reinforcing the idea that immunity from criminal prosecution for the head of state, government, etc., cannot be applied to crimes of international significance such as genocide, crimes against humanity, war crimes, and aggression. These principles are recognized in the Treaty of Versailles, the Charter of the International Military Tribunal at Nuremberg, the Convention on the Prevention of Genocide, and the Statutes of the ICTY and ICTR, among others.”*^{107”}¹⁰⁸

¹⁰⁵ The Constitution of the Republic of Albania, in a number of provisions has provided the immunity from criminal proceeding as an integral part of the judicial status for a number of subjects, including the head of the state, members of parliament, members of government, etc. accessed through the link:

<https://www.qbz.gov.al/previe%C3%AB/635d44bd-96ee-4bc5-8d93-d928cf6f2abd>

¹⁰⁶ Article 29 of the Rome Statute.

¹⁰⁷ The House of Lords of the United Kingdom, in the Pinochet case, regarding the lack of immunity, stated: ‘...a contrary conclusion would constitute a departure from international law,’ cited in Decision No. 186, dated 23.09.2002 of the Constitutional Court of the Republic of Albania.

¹⁰⁸ Decision no. 186, dated 23.09.2002 of the Constitutional Court of the Republic of Albania.

Furthermore, this court emphasized that “...*It is necessary to state that, since according to the Constitution the generally recognized rules of international law are part of domestic law, the absence of immunity in international criminal proceedings for certain high-risk crimes also becomes part of the Albanian legal system. Moreover, international jurisprudence has developed a series of consistent practices based on the main objective of preventing perpetrators of these criminal acts from defending themselves by claiming that the acts were carried out in the exercise of official authority (acta iure imperii)*¹⁰⁹. A position applicable and accepted by all the states that have ratified the Rome Statute.

In the light of the above, precisely relating to the investigation of the acts suspected as crimes against humanity and genocide against the Chamerian community, it can be concluded that unlike the statutory provision for the temporal jurisdiction of the International Criminal Court, the statutory provision of the nonexistence of the immunity of the high-ranking state officials, in the cases when a crime under the jurisdiction of the International Criminal Court is being investigated, is a favorable legal principle, because it does not prevent the investigation of the unlawful acts.

4. The right of property and repatriation of the Chamerian community

4.1 Overview of the violation of the property rights of the Chamerian community.

The right to property is one of the fundamental rights of an individual. Currently this right is vastly sanctioned in national and international legal frameworks. One of the primarily obligatory legal instruments that guarantees the rights of the property is the European Convention of Human Rights, the United Nations Card, national legislations, as well as several acts pursuant to it.

Thus, the European Convention of Human Rights provides that: “***Every natural or legal person has the right to the peaceful enjoyment of their possessions. No one shall be deprived of their property except in the public interest and subject to the conditions provided for by law and by the general principles of international law. However, the preceding provisions shall not prejudice the right of States to enforce such laws as they deem necessary to regulate the use of property in accordance with the general interest or to secure the payment of taxes, contributions, or other penalties.***”¹¹⁰ Similarly, the United Nations Charter states that: “The United Nations undertake: ...3. ***to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race,***

¹⁰⁹ Decision no. 186, dated 23.09.2002, of the Constitutional Court of the Republic of Albania.

¹¹⁰ Article 1, European Convention of Human Rights.

*sex, language, or religion;*¹¹¹ The national legislations have generally built a legal system for ensuring this right, based on these acts.

Throughout history, however, the effective enjoyment of property rights has been undermined by political, social, and historical circumstances. There is no doubt that through years, states have progressively improved in ensuring this right through sanctioning, administrative and judicial frameworks. However there are still some problems inherited from the past, the solution of which asks for political and social consensus.

The property rights of the Chamerian population represent the worst example of the materialization of this right into practice. This assessment is based on the actions undertaken by Greece or Greek high officials holding various public positions as referred above, numerous sources state that:

“The main problems were encountered in the enjoyment of the right to property. In this regard, Frashëri recalled Greece’s obligations dating back to the Treaty of Athens, which guaranteed the protection of property rights that the population of the ceded territories had enjoyed since the Ottoman Empire. However, based on Greece’s subsequent legal framework, Greek villagers and refugees could be settled on the properties of the Chamerians (Albanians in general) and exploit the produce of these properties, while the owners often received no benefit at all. According to Frashëri (1928), the expropriations carried out against Muslims did not include any form of compensation for the owners. Furthermore, at this meeting he mentioned a fact repeatedly denounced by the Albanian side regarding the favoritism created by the territorial division, which resulted in the exclusion of the election of two Chamerian deputies to parliament, as would have been warranted based on the size of the population. He also emphasized that the Chamerians did not enjoy the right to education in their mother tongue.”^{112,113}

Meanwhile, in another academic source¹¹⁴ A detailed account is done on the actions undertaken by Greece concerning the property rights of the Chamerian community. According to this account the alienation of the properties of Muslim Chamerians did not begin at the end of the Second World War, when the population was expelled. According to this source there were enacted three different laws from 1923 until 1937, that alienated the properties of the Muslim Chamerian Albanians, as a condition of the Convention Concerning the Exchange of the Turkish and Greek Populations. Specifically, it addresses the fact that the immovable property of Greeks

¹¹¹ Article 1, United Nations Charter.

¹¹² Central State Archives (AQSH), Fund 251, File 40, Year 1928, pp. 210–223. Minutes of the Discussion on the Issue of Property and the Albanian Minority in Greece, 50th Session of the League of Nations (5 June 1928), cited in Blerina Sadik, ‘The Chamerian Issue: A Historical–Legal Overview’(1913–1939), p. 192, last accessed on 17.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf

¹¹³ Blerina Sadik, ‘The Chamerian Issue: A Historical–Legal Overview’(1913–1939), p. 192, last accessed on 17.06.2025 at the link: https://uet.edu.al/wp-content/uploads/2021/11/Blerina_Sadiku-final.pdf

¹¹⁴ Accessed at the link: <https://albanianstudies.weebly.com/Chamerian-issue.html>

that evacuated Asia Minor was expropriated by Turkey and was given to the Muslim Greeks. Moreover it refers that the Greek immigrants that came from Asia Minor were three times more than the Muslim immigrants that left Greece. Following these developments, Greece declared that the properties that belonged either to the Muslim Greeks that were expelled by the exchange of populations, or to foreign nationals, were subject to confiscation. The first law was adopted on February 15, 1923, which resulted in the alienation of the secondary lands and houses of the Albanian Muslim Chamerians, with the intention of allocating them to the Greek settlers from Asia Minor and to landless Greek farmers.

This source refers that according to this law, the Albanian Muslim Chamerians attempted to reclaim their properties, under the Greek Law of 1926, which gave them the chance to take this confiscation to the courts. In these circumstances, Greece enacted two different laws, in 1930 and 1931, which gave greater compensations to the Muslim community. But both of them were implemented very restrictively due to the changes of the Greek government. The final law that nationalized all the properties of the Muslim Chamerian Albanians and other Albanian citizens residing in Albania was approved in 1937. This law confiscated all the properties of the Muslim Chamerian Albanians and the compensations given were delayed, something that was perceived as provocative.

In 1953 the Greek Parliament adopted a law which considered the immovable rural properties, whose owner had left Greece without a permission or passport, as abandoned. After three years such properties were nationalized. Houses were nationalized in 1959, when a law approved by the Greek parliament considered them abandoned and allowed for them to be occupied by other residents of the region. These two laws nationalized the Chamerian properties and allowed third parties to be placed on their properties, while formal ownership remained vested in the Greek State. According to these laws, a number of other residents of Epirus were placed in Chameria, particularly the Vlachs. The houses and properties of the Chamerian were under their administration, but the new members did not have legal ownership rights, nor the right to sell or buy other properties of the Chamerian. During the decades of the '60 and '70, an ad hoc commission for the alienation of the properties in Thesproti, rural properties were allocated by lottery to landless and non-landless farmers, while urban houses and properties in Igumenitsa, Paramitha Margariti, Filat, Perdika and Sybota were distributed to homeless individuals.

Meanwhile, regarding the non-enjoyment of property rights by the Chamerian community, another academic source¹¹⁵ cites that Law No. 3250, published in the Official Gazette of Athens on 31.XI.1924, established in several legal acts regulations classifying the movable and immovable properties belonging to Muslims as 'inseparable. Following the law of February 2, 1934, which ratified the Ankara Convention of December 1933, which legally classifies non-Albanian Muslims from Turkey as Albanians of Chameria. Article I of the law abolishes all

¹¹⁵ Albert Ll. Kotini, "Chameria denounces", Fllad, 1999, p. 210-212.

previous property rights of ‘inseparable’ Muslims, granting the State unrestricted authority to retain and dispose of their property, regardless of nationality. It stipulates that Muslims are unable to manage or mortgage movable and immovable property unless they obtain a certificate from the General Prosecutor proving that the Muslim in question is not ‘exchangeable’.

Furthermore, it is noted that, without going into more detail on the modified structure of the law, it suffices to point out that both the purchase and the sale, subdivision, or division of land—even through children or siblings—of any plot exceeding 300 stremmata (or 30 hectares) that had escaped government control is prohibited. This restriction was designed to prevent the proper use and management of land remaining from the inheritance of multiple families. The General Directorate of Exchanges gathered a majority of extraordinary officials outside the standard framework by giving them instructions to take control through a simple protocol and place at the disposal of the National Bank of Greece as the administrator, the properties of all Muslims wherever they were.

Regarding the above-mentioned officials, it is specified that they were separated in sectors and eager to profit from an extraordinary circumstance by acting as follows: they were first informed about the important Muslim property owners and then approached them with offers to omit registration of their properties in exchange for reasonable sums. Thus, according to this source, many Albanian Muslims, considering their availability and the large losses they would suffer if their properties were registered, preferred to pay the requested sum so that the official would pretend not to notice during the transfer. However, this did not save the properties, because shortly afterward another official from the same group would appear and make the same proposals; then a third, and so on, until reaching an official who no longer received illegal compensation. At that point, the properties of Albanian Muslims were registered, seized, and handed over to the National Bank of Greece, leaving the owner with only the option of appeal, which in most cases remained merely a dead letter.

As observed, the property of the Chamerian community acquired during the Ottoman Empire has gone through a long transforming and violating process which was justified by the practical needs and circumstances of Greece at that time. Regardless of the justifications and camouflage which unfortunately have been lawfully approved, the violation of the property right of the Chamerian community remains evident. On the contrary, it should serve as a moment of reflection that encourages the national Greek State to give a definitive positive solution to the property claims of the Chamerian community.

4.2 Analytical aspects of the possibility of the current enjoyment of the property rights of the Chamerian community

A considerable period of time has elapsed since the Chamerian community has owned its property rights in the Chameria region. This passage of time has affected the achievement of a conclusive solution for this issue, despite the articulation of claims by the Chamerian community for this issue to be solved completely. However, as it is well established, negotiation is both a judicial and political process, and requires the will of the two parties participating in the process. Regarding the negotiation of the long-standing property process of the Chamerian community, it may be stated that for finding a solution, the willingness of the Greek party is necessarily needed, which has historically maintained a position largely resistant from negotiating a settlement of the Chamerian community's property claims. When considering the judicial national and international treatment of the property issue of the Chamerian community, we may say that it is a journey that can bring more light to the resolution of this problem. Let us see a summary of the decision of the ECHR which treats explicitly the case of the de facto jurisdiction of a country member of the Convention and the case of the *ratione temporis* case, temporal and political-administrative treatment that have received the requests and for the return of the Jewish properties after the Second World War.

4.2.1 The “Loizidou v. Turkey” case

The “Loizidou v. Turkey” case¹¹⁶ addresses the case of the de facto jurisdiction of a State Party of the Convention and about territories that were not formally recognized as territories of that country.

The case is regarding an applicant that grew up in Kyrenia, in northern Cyprus, where she owned some immovable property. In 1912 she married and relocated to Nicosia with her husband. Since 1974 she claims that she had been prevented from going to the properties mentioned above as a result of the Turkish forces in Cyprus.

¹¹⁶ Decision of ECHR for the “LOIZIDOU against TURKEY” case, request no. 15318/89, March 23, 1995, which treats case of the de facto jurisdiction of a country member of the Convention and regarding the territories that have not been formally recognized and territories of that country.

On March 19, 1999, a group of Greek Cypriot women, under the initiative “Women walk home” organized a march with the intention already disclosed, to cross the fire line of the Turkish forces. The demonstrators marched from Nicosia towards Lymbia, where a group managed to cross the roadblock and the line of the Turkish forces. Some of the women, including Mrs. Loizidou, were arrested by Turkish-Cypriot police. Later, on the same day, they were handed over to officials of the Organization of the United Nations in Nicosia and transferred to the Greek Cyprus area.

The Turkish Government submitted, in the form of preliminary objections, the claim that the case fell outside the jurisdiction of the Court because it concerned facts and events that had occurred before the date (22 January 1990) of the Turkish Government’s declaration accepting the Court’s jurisdiction, pursuant to Article 46 (i.e., objection *ratione temporis*¹¹⁷), and did not relate to matters concerning the territory covered by that declaration (objection *ratione loci*¹¹⁸). The application was submitted to the Commission on 22 July 1989 and was declared admissible on 4 March 1991.

After unsuccessful attempts to reach a friendly settlement, the Commission drafted a report on July 8, 1993 where it presented the facts and expressed the opinion that there was no violation of: article 3 (unanimously); article 8 regarding the personal life of the applicant (eleven votes in favor, two against); article 5 § 1 (nine votes in favor, four against); article 8 regarding the house of the applicant (nine votes in favor, four against); and article 1 of Protocol 1 (eight votes in favor, one against).

The case was presented to the court by the government of the Republic of Cyprus based on article 48 (b0 of the Convention, regarding the claimed interference to the property rights of the applicant (article 1 of Protocol 1 and article 8 of the Convention).

The Court, regarding the standing of the applicant government to bring the case, has considered that the recognition of an applicant by a government that is a respondent party is not a preliminary requirement either for initiating a case under Article 24 of the Convention or for submitting the case to the Court under Article 48. The Court further emphasizes that, if this were the case, the system of collective guarantees, which is also a fundamental element of the Convention mechanism, would, in practice, be neutralized, based on the play of reciprocal recognition between different states and governments.

¹¹⁷ Ratione temporis – Latin term used vastly, especially by international law, that means “temporal competence”, quoted in Ledi Bianku, Odeta Kumbaro, “Jurisprudence of the Court of Strasbourg”, fourth edition, Tirana 2017, p. 2-5.

¹¹⁸ Ratione temporis – Latin term used vastly, especially by international law, that means “territorial competence”, “local competence”, quoted there.

Meanwhile, regarding the claimed abuse with the procedure, the Court has evaluated that: “...7. *To the extent that the exclusion was directed against the applicant government, the Court noted that the latter had approached it for reasons including concern for the rights of Ms. Loizidou and other citizens in the same situation. Therefore, in this case, the Court did not observe any procedural abuse.*”

Furthermore, regarding the objections of lack of jurisdiction **ratione loci**, “*The Court recalled in this context that, although Article 1 defines certain limits to the scope of the Convention, the notion of jurisdiction within the meaning of this provision is by no means confined to the territorial boundaries of the High Contracting Parties. ... Moreover, the responsibility of the Contracting Parties may arise from acts carried out by their organs that produce effects either within or outside the territory of the High Contracting Parties themselves. **Taking into account the object and purpose of the Convention, the responsibility of a Contracting Party may also be established when, following a military action, whether lawful or not, it effectively exercises control over an area situated outside its national territory. The obligation to secure, in such an area, respect for the rights and freedoms guaranteed by the Convention arises from the very fact of this control, exercised directly, either through the armed forces of the state in question or through a local administration dependent on it.***”

Regarding the validity of territorial limitations that are part of the declarations done by Turkey regarding articles 25 and 46 of the Convention, the Court stated that articles 25 and 46 are two crucial dispositions on the effectiveness of the system of the Convention because they are the one that specify the responsibility of the Commission and the Court to “ensure the completion of the engagements that high contracting parties have undertaken” according to the Convention (article 19), by providing for their competence to admit appeals made on account of alleged violations of the rights and freedoms enshrined in it. According to the Court, when it interprets these provisions, it should consider the particular nature of the Convention, as the treaty that includes collective guarantee for the fundamental human rights and freedom. Therefore, as the court has stated in the decision of Ireland against the United Kingdom on January 18, 1978, **different from the international treaties of a classical nature, the Convention goes beyond the framework of simple reciprocity between the Contracting States. In addition to a network of bilateral abstention commitments, it also creates objective obligations which, as stated in its Preamble, enjoy a “collective guarantee”.**

The court further underlined that the Convention is a living instrument and should be interpreted under the light of present-day conditions. Through this decision it is stated that such an engagement for the Court, is not restricted only by the normative provisions of the Convention, but it is even more valuable for these provisions of article 25 and 46 which regulate the functioning of the mechanism of implementation of the Convention. Therefore

these provisions could not be interpreted only in relation to the intentions of their authors, as these intentions were expressed 40 years earlier.

The Court further emphasizes that the object and aim of the Convention, instrument for the protection of the human beings, requires that its provisions are interpreted and implemented in a way that fulfills its requests in a concrete and effective way.

Regarding above, the Court reasoned that “...To assess whether the Contracting Parties could impose limitations regarding the acceptance of the competence of the Commission and the Court under Articles 25 and 46, the Court sought to determine the ordinary meaning that should be given to the terms of these provisions in their context and in the light of their object and purpose. In this regard, the Court made specific reference to the decision of 18 December 1986 in the case of *Johnston v. Ireland*, as well as to Article 31 § 1 of the 23 May 1969 Vienna Convention on the Law of Treaties. In parallel with the context, it took into account ‘any subsequent practice in the application of the treaty, which establishes the agreement of the parties regarding the interpretation of the treaty.’

15. If, as the respondent government claimed, these provisions allowed for territorial limitations or restrictions concerning the content of the acceptance, the Contracting Parties would have been free to subject themselves to different regimes for the implementation of the obligations arising from the Convention according to the extent of their acceptance. Such a system, which would have allowed states to adjust their acceptance based on optional reservations, would have seriously weakened the role of the Commission and the Court in performing their functions and would have reduced the effectiveness of the Convention as a constitutional instrument of the European public order. Moreover, when the Convention authorizes states to limit their acceptance under Article 25, it does so explicitly.

16. According to the Court, taking into account the object and purpose of the Convention system outlined above, the consequences for the implementation of the Convention, as well as the achievement of its objectives, were of such importance that any competence in this regard would have had to be expressly provided. Thus, neither Article 25 nor Article 46 contains such a provision.

17. The existence of such a restrictive provision regarding reservations suggests that states would not limit the acceptance of optional declarations in a way that would, in practice, remove from the control of the Convention’s organs parts of their law and practice that fall under their ‘jurisdiction.’ The inequality that could arise between states from allowing limited acceptances in this manner would be even more contrary to the purpose of the Convention as expressed in its Preamble: the realization of an ever closer union through the maintenance and development of human rights.

18. The above considerations strongly support the idea that the Convention system does not permit such limitations. This view is confirmed by the subsequent practice followed by the Contracting Parties regarding these provisions.

*19. It must also be taken into account that Articles 25 and 63 had different objectives and purposes. Article 63 concerned the decision of a Contracting Party to assume full responsibility, vis-à-vis the Convention, for all acts of public authority occurring in the territory in relation to which it exercised international relations. Article 25, on the other hand, concerned the acceptance by a Contracting Party of the competence of the Commission to receive and recognize applications relating to acts of organs acting under the direct authority of that Contracting Party. Due to the fundamentally different nature of these provisions, the fact that a state had to make a special declaration under Article 63 § 4 in order to accept the competence of the Commission to recognize applications made in relation to its territories should not, in light of the arguments just discussed above, affect the validity of the *ratione loci* limitations included in the declarations relating to Articles 25 and 46.*

In summary of the above reasoning, the Court concludes that taking into account the nature of the Convention, the normal meaning of the articles 25 and 46 in their content and under the light of the object and their aim as well as on the other side, the practice of the contracting parties, we reach the conclusion that the limitations *ratione loci*, which were part of the declarations of Turkey about articles 25 and 46, were invalid. In this situation the remaining issue concerned, as a consequence, the validity of accepting them as such could be reconsidered.

Finally, in the absence of the competence *ratione temporis*, which is directly relevant to the case of the Chamerian community as well, the court emphasized that article 46 of the convention gives the contracting parties the chance to limit, same as Turkey did with its declaration of January 22, 1990, the acceptance of the jurisdiction regarding the facts that happen after the date of the submission. From this point of view, the jurisdiction of the Court was valid only about the continuous violations claimed about the property rights of the complaint after January 22, 1990. According to the Court, the difference in the temporal jurisdiction of the Commission and the Court with respect to such a complaint was a direct and foreseeable consequence of the specific Convention provisions, which also provided for the recognition of the right of individual application (Article 25) and that of the Court's jurisdiction (Article 46).

As it is noticed in the above analysis, this decision has two key implications:

First, relating to the jurisdiction *ratione loci*, for which the court has concluded that the responsibility of the member states in the convention for possible violation against it is present even in relation to acts that present consequences even outside of their internationally known territory. Thus, the Court accepted that the national jurisdiction is a concept that goes beyond the substantial dimensions of the concept of territory, by bringing in this case the same judicial consequences regarding the responsibility of the state. Relating to this argument, on the concrete case, the Court accepted that regardless that the territory of North Cyprus was not part of the territories of the Republic of Turkey, the presence of Turkish military forces and Turkish administration, made the Turkish government precise about the human right violations happening in this part of the island.

And second, regarding the competency *ratione temporis*, for which the court has decided that the jurisdiction of the Court was valid only regarding the continuous violations claimed toward the property right of the applicant after January 22, 1990, on the date when Turkey has made the declaration for the limitation of the jurisdiction.

The decision-making of the ECHR represents an optimistic ray of light regarding the current circumstances of the property issues of the Chamerian community. This is because despite the absence of the political willingness of the Greek party to solve the property issues of the Chamerian community and the time gone by, the community itself, or Albania, may refer the matter to ECHR for the violation of Article 1 of the European Convention for Human Rights, only about the violations claimed about the property right of the Chamerian community occurred after the date on which Greece ratified the Convention.

4.2.2 Post-WWII Jewish Property Restitution

In addition to addressing the above-mentioned decision, and likewise within the framework of guaranteeing the property rights of the Chamerian community as a fundamental human right, as well as providing an objective assessment of the possibility of their restitution, or, where restitution is not possible, the granting of financial compensation, we have considered it of interest in this paper to include a summary of the claims for the restitution of Jewish property after the Second World War.

Thus, during WWII, Nazi Germany conquered the territory of the present Czech Republic (previously part of the independent place of Czechoslovakia), by establishing the Protectorate of Moravia and Bohemia. All Jewish in the Protectorate obeyed the German Jurisdiction and anti-Jewish laws, including German laws of expropriation of Jewish property. Immediately after WWII, Czechoslovakia (restored after the surrender of Germany) approved the decree No.

5/1945 and the act no. 128/1946, which provided that all property transfers that happened under the pressure of the Nazi occupation between 1939 and 1945 were invalid. In 1948 Czechoslovakia fell under the influence of Soviet communism and the returning efforts were halted for the next forty years. Czechoslovakia was peacefully dissolved in 1989 in the so-called ‘Velvet Revolution.’ Two independent states emerged in its place: the Czech Republic and the Slovak Republic.¹¹⁹

Referred to the doctrine¹²⁰, in the post-communist period, the Czech Republic established laws in the field of return of private and communal properties, with some main restrictions on the amount of the returned property. The return procedures in the former Czechoslovak Federal Republic (CSFR)¹²¹ are regulated based on three federal laws, specifically:

1. Federal Law on Small-Scale Restitution¹²² of 2 October 1990;
2. Federal Law on General Restitution¹²³ of 22 February 1991;
3. Federal Land Law (FLA) of 21 May 1991.¹²⁴

According to this doctrinal view, the first law dealt with properties that had been nationalized up to 1950, while the other two laws addressed all measures of unlawful state interference with property and individuals after 25 February 1948, the day communism was established, except for those already covered by the first law. The Federal Land Law concerned agricultural land. On 15 April 1992, the Czech Republic, no longer part of the Czechoslovak Federation, adopted the Czech Republic Restitution Act (CRRRA), thereby remedying some of the injustices. The aforementioned acts primarily provided for restitution in kind and compensation. When restitution was granted, the property was returned free of any obligations incurred after nationalization. However, existing lease agreements continued for up to ten additional years, except in cases where their effects ended earlier. Compensation was provided if restitution was excluded in accordance with one of four cases:

¹¹⁹ Overview of immovable property restitution/ compensation regime - Czech Republic (as of 13 December 2016) ESLI Restorative Justice and Post-Holocaust Immoveable Property Restitution Study Team (queries: michael.bazyler@shoahlegacy.org), quoted in Eliora Elezi, Dissertation on the defense of the scientific degree “Doctor”, “Acquisition of Ownership under the Law on the Restitution and Compensation of Property to Former Owners as a Mode of Original Acquisition of Ownership” Tirana, 2018, accessed at: <https://www.aksedrejtisi.al/dokumenta/1612179892ELIORA-ELEZI-XHIHANI.pdf>.

¹²⁰ Eliora Elezi, Dissertation for the award of the scientific degree ‘Doctor,’ ‘Acquisition of Ownership under the Law on the Restitution and Compensation of Property to Former Owners as a Mode of Original Acquisition of Ownership,’ Tirana, 2018, pp. 147-149, accessed at: <https://www.aksedrejtisi.al/dokumenta/1612179892ELIORA-ELEZI-XHIHANI.pdf>

¹²¹ The Czech and Slovak restitution, A Brief Outline by Volker G Heinz, quoted in Eliora Elezi, Dissertation on the defense of the scientific degree “Doctor”, “Acquisition of Ownership under the Law on the Restitution and Compensation of Property to Former Owners as a Mode of Original Acquisition of Ownership” Tirana, 2018, accessed at: <https://www.aksedrejtisi.al/dokumenta/1612179892ELIORA-ELEZI-XHIHANI.pdf>.

¹²² The Small Federal Restitution Act (SFRA) of October 2 1990, quoted there.

¹²³ The Large Federal Restitution Act (LFRA) of February 22 1991, quoted there.

¹²⁴ The Federal Land Act (FLA) of May 21 1991, quoted there.

- 1. Restitution is physically impossible;*
- 2. The claimant chooses compensation because:*
 - a. the property has undergone substantial changes;*
 - b. the property has been largely destroyed;*
 - c. the claimant has already received partial compensation, i.e., does not wish restitution in exchange for the compensation previously received;*
- 3. The current possessor of the property is exempt from restitution because:*
 - a. he/she is a natural person who acquired the property lawfully and in good faith;*
 - b. the possessor is a company with foreign elements;*
 - c. the current possessor is a foreign state;*
- 4. The property already serves public purposes.*

On the possibility of the compensation application, the amount was limited to 30,000 Czech crowns of monetary worth and the rest was offered in state securities (government bonds). The payment in monetary compensation was delivered only to the former property owner, and not to their legal descendant. In these cases the monetary limitation would vary to 60,000 Czech crowns (in case the whole immovable property of a natural person had been confiscated)

Compensation for the agricultural land was provided only when the original land or substituting land parcel were not available. Compensation could include even the worth of the dead livestock and abandoned crops. The monetary evaluation of the property was referred to in the evaluation rules that were in force on the date when the restitution act was implemented. The restitution of parcels over 150 hectares for non-agriculture land and 250 hectares for agriculture land (was removed after February 1992). Another important limitation which has been implemented until recently was that only natural persons that were Czech or Slovak citizens and residents of the former Federal Republic of Czechoslovakia had the right for restitution according to the law. The requests limited by the residence were repealed by a decision of the Constitutional Court of the Czech Republic in July 1994. This part of the law was considered unconstitutional, a decision which opened the way for new requests. Regarding citizenship, the legal situation is quite complicated. The majority of the former owners were not alive anymore or any other claimant had to create Czech or Slovak citizenship. This was quite difficult. The claimant could not have the citizenship, or even if they had, they might have lost it, for example through marriage or voluntarily. A number of the legal issues have not been solved yet. The subjects that were obligated to return the property were generally “the state” or the ministries that administered the claimed properties. However, even natural persons that had acquired the properties through unlawful ways, or that were personally included in the persecution of the former owner were obliged to return the properties. The same obligation applied even to the natural or judicial persons, local or foreigners, that had become property owners after October 1, 1990, thus, after the entry in force of the Federal Law of Restitution.

From a more detailed look into the above doctrinal stance,¹²⁵ A peculiarity of the restitution process in Czech and Slovakia is that, with one exception, there is no institution that deals with restitution. The claims can be done directly to the current property owner. If they do not accept the return of the property within 30 days after the presentation of the claim, the case can be presented to court. Thus, an exception to the above rule applies in the case of handling claims for the restitution of agricultural land. In this case, claims against the current possessor must be **submitted simultaneously and through a single application to the Regional Land Office. This office may veto, modify, or enforce a subsequent agreement.**

It is obvious that the restitution of properties to the Jewish owners after the Second World War was a long process with its problems and limitations. However, it has been a process that has happened and has guaranteed an acceptable form and standard, the right of property as the human fundamental rights. By the above quotation, it is clear that the restitution process of the Jewish properties has been a process initiated by the political governmental willingness. This willingness is absent by Greece, when it comes to the claims of the Chamerian community for restitution and when the restitution is not possible, their compensation. Greece has to first accept the acts that happened as historical facts and then take all the necessary measures for the compensation of the Chamerian community.

In this regard, a positive example for Greece is the United States of America, whose Congress approved a resolution after June 17, 2009, formally condemning slavery and racial discrimination in the country. In a statement by Harry Reid it is noted that, the memory of the painful past about the efforts “for healing the wounds of one of the gravest crimes against humanity in history” is a solemn obligation of our generation. Similarly, on June 21, 2006 Canada officially apologized for the treatment inflicted on Chinese immigrants at the beginning of the last century through the Head Tax. In 1988, the American Congress publicly apologized for the collective internment of the Japanese-Americans during WWII, in 1993 they apologized to Hawaii for the overthrow of its monarchy, and in 2008 it apologized to the Indigenous Native American communities, among other cases ¹²⁶.

Greece as well, regarding the so-called “Chamerian issue” should act under the light of the recuperation of the wounds of the past. Unfortunately, this trend has still not found resonance in this country, which is considered in books as the cradle of Western democracy. The example of the restitution process of property to the Jews is a positive example that should be followed, even by Greece itself.

¹²⁵ The Federal Land Act (FLA) of May 21 1991, quoted in Eliona Elezi, Dissertation for the defense of the scientific degree “Doctor”, “Acquisition of Ownership Based on the Law on the Restitution and Compensation of Property to Former Owners as a Derivative Method of Acquiring Ownership”, Tirana, 2018, accessed at the link: <https://www.aksesdrejtesi.al/dokumenta/1612179892ELIORA-ELEZI-XHIHANI.pdf>.

¹²⁶ Agron Alibali, “The Constitution, Europe and Chamerian Community” Institute of Chamerian Studies, Iceberg, Tirana, 2013, p. 98.

4.3 Restitution opportunities of the Chamerian community

In the light of the information above, the right to restitution of the Chamerian community likewise depends largely on the willingness of Greece. For many years this right has not been materialized in practice due to the influence of different legal, political and historical factors. One of the most important is the Greek Civil War, as well as the beginning of the Cold War. A law that interrupted for a long time the relationships between the two parties, and which remains in force to this day. Certain discriminatory and racist provisions within Greek legislation have prohibited individuals of non-Greek ethnicity and non-Orthodox faith from acquiring Greek citizenship. Furthermore, the 1952 decree of the International Presidium of the People's Assembly in Greece revoked the Greek citizenship of all Chamerian refugees residing in Albanian territory, against their will.

Nevertheless, despite the conduct mentioned above, Greece's stance has evolved through the years. Greece is now a democratic state, member of the EU and NATO, and with a political class relatively Europeanized, somehow more detached from the chauvinistic passions or the past myths of racial superiority and intolerance, moreover, relations between Greece and Albania today may be regarded better than before, offering hope for the initiation of implementation of a concrete program that would ensure the repatriation of the Chamerians."¹²⁷

That said, bearing in mind that the official stance of Greece regarding the "Chamerian issue" is of a firm nature, that is not open to discussion and that often is justified by contemporary officials the with the argument that the acts undertaken against the Chamerian are committed by Greek irregular forces, or were directed at individuals deemed collaborators with enemy powers such as Germany or Italy—it is important to emphasize that the non-restitution of Chamerian property cannot be justified solely by alleged individual wrongdoing. In this case the restitution should be seen as a mechanism that diminishes the wounds of the violation of rights of the Chamerian community which was violently and forcibly displaced from its properties approximately seventy years ago.

We bring to the attention another quote of a scholar¹²⁸ "*...there are only 1,100 individuals of the Chamerian minority who were convicted in absentia by the Ioannina court on charges of collaboration with the Germans,*" *the Director of the Legal Directorate of the Greek Ministry of Foreign Affairs would declare in 1995, at a meeting of the joint subcommittee on consular legal issues in Tirana. This statement by an official Greek representative was an important step in the efforts of the department of the former Foreign Minister Serreqi to initiate the process of resolving the issue of the return of individuals belonging to the Chamerian minority, who had been displaced with bloodshed and violence from their homes in the years 1944–1945 and*

¹²⁷ Agron Alibali, "The Constitution, Europe and Chamerian Community" Institute of Chamerian Studies, Iceberg, Tirana, 2013, p. 91-92.

¹²⁸ "Shekulli", 13.09.2005, quoted by Agron Alibali "The Constitution, Europe and Chamerian Community" Institute of Chamerian Studies, Iceberg, Tirana, 2013, p. 90.

temporarily settled in Albania. Indeed, although the statement accepted as valid certain judicial decisions issued in absentia by an irregular or kangaroo court, it nevertheless fully exonerated the overwhelming majority of more than 40,000 Chamerians—mainly elderly people, women, and children—who managed to survive the horrific massacres of Paramythia and Filiates, or the so-called refugee camp in Klllogjer and Mursi near Saranda. There, hundreds of elderly people, women, and children died while waiting for imminent repatriation, as a result of terrible living conditions, disease, or the elements of nature.”

Thus, it is evident that the Chamerians accused and tried for collaboration constitute only a small portion of those that have been displaced from their territories, and as a consequence according to a regular legal process should enjoy the right to restitution. The practical implementation of this right would demonstrate Greece’s respect for the democratic values upheld by the international organizations of which it is a member and would contribute to the preservation of peace and the protection of human rights, while also finally resolving a long-standing issue.

4.4 The Greek Law on the State of War

The Greek state legal defence rejects the classification of these crimes categorised as genocide/ crimes against humanity. They only acknowledge the operation of the actions during 1944-1945 as a method to provide national defence as a legal penalty towards the axis collaborators.

From this perspective, the Greeks saw the Chamerian community as a direct threat classifying them as collaborators. As a consequence, they lost their immunity as a protected civilian group. Greece seemingly denies an existence of any type of conscious implication of violence and inhibition of human rights through several legal bases, primarily relying upon the establishment of Law 2636/1940, otherwise known as the Law of War. The basis of such law remains reliant upon the threat of the Italian occupation of Albania, seeing both powers as a threat towards Greek sovereignty. Upon this legal basis, Greece was able to justify acts and property sequestrations against enemies as legal.¹²⁹ The Greek Army considered them as military jeopardy, not as non-combatants. From the Greek point of view, the Chamerians were not forcibly displaced, they imply that the Chamerians fled the country because they did not want to be held accountable for the atrocities that they committed during their axis collaboration.¹³⁰ Under the law 2636/1940, the seizure of Chamerian property was justified because they were the property of the combat and they were treated as the enemy.¹³¹ In conclusion the Greeks used this “legal basis” to seemingly justify their position and actions, the Chamerians were categorised as traitors and their objective was to penalise the betrayers and not discrimination against a minority group.

¹²⁹ Saimir Lolja, ‘The Greek War Act 2636/1940 has no binding to native Muslim Arvanites’ (2021) https://www.zemrashqiptare.net/PDF/Greek%20War%20Act%202636-1940%20has%20no%20binding%20to%20Muslim%20Arvanites_2021-06-28.pdf accessed 20 May 2024.

¹³⁰ Georgios Mantzoukas, *The Chamerian Issue: Truth and Myths* (Institute of Balkan Studies 1951) 45.

¹³¹ Law 2636/1940 Regarding Legal Acts of Enemies and the Sequestration of Enemy Property [1940] Government Gazette A 379.

4.5 The Greek Law on the State of War, and violation of the international right principles and the Friendship treaty of 1996 between Albania and Greece.

Following the end of the Second World War, as a rule the relationships between Albania and Greece should be concluded through a treaty that would guarantee peace and would bring prosperity, as occurred in relations between Italy and Greece, Italy and Albania, etc. This, however, did not occur. The Greek state still maintains in force the 1940 Law, on the State of War with Albania. This law violates the norms of the current international law that governs the relationships between two sovereign states, and also hinders any cooperation between the parties.

Regarding the repeal of the law, the stance of Albania has been consequent, and for this reason, during all the negotiation processes between states the repeal of the law has been the condition for the normalization of the relationship. A response to this stance was the decision of August 2, 1987 of the Greek government, of the Prime Minister Andreas Papandreou, for the removal of the Law of War. Greece was almost compelled to make this decision due to its engagement in the EU and NATO. This engagement required a stable, conflict-free relation with neighboring states and the elimination of a “de jure” state of war. However, despite the decision from the Papandreou government, the decision was neither approved by the Greek Parliament nor promulgated by the then President of Greece, Mr. Hristos Sartzetakis. These procedural conducts give judicial power to sublegal acts.

Such a situation constitutes a violation of Article 2(4) of the United Nations Charter, which prohibits ‘the threat or use of force against the territorial integrity or political independence of any state.’ Therefore, in 1996, Greece concluded the Treaty of Friendship with Albania, an act which recognized the borders and obliged the states to protect minorities. The Albanian Parliament ratified the Treaty a year later. In December 1999, the Treaty was also ratified by the Greek Parliament, although it was debated in a decidedly negative atmosphere, and reservations were expressed regarding the potential implications of the Treaty concerning the property issues of Albanians in Greece. However, despite this monumental step in bilateral relations, the Greek side did not accompany the ratification of the Treaty with a clear, explicit, and unequivocal commitment or declaration that would immediately and unconditionally declare the nullity of the 1940 Law on the State of War.

Even though the Friendship Treaty¹³² between Albania and Greece never been fully public, various sources¹³³ state that on March 31, 2025 the period of judicial effects of this treaty will end. Under these circumstances, it appears that the war law has been reinforced, and consequently the efforts of Albania and international powers need to be strengthened and intensified in order to repeal the law and start a new era of bilateral relations that heal the

¹³² For more information see Agron Alibali, “The Constitution, Europe and Chamerian Community” Institute of Chamerian Studies, Iceberg, Tirana, 2013, p. 193-199.

¹³³ For more information see the link:

<https://www.balkanweb.com/zbulohe-e-fshehta-traktati-i-miqesise-greqi-shqiperi-skadoi-me-31-janar/#gsc.tab=0>

wounds of the past and foster future cooperation. Restoring the state of bilateral relations between Albania and Greece to the “status quo ante,” as it existed prior to the decision of the Papandreou government in 1987, would constitute a failure to fulfill the longstanding obligations and commitments of the Greek side, thereby affecting the bilateral interests and European integration processes of both countries.

Thus, in this situation it is evaluated that the the significant importance to draw the attention of both parties, particularly of Greece, and also of the international instances, that **the existence of the War Law does not have any judicial or factual relation with the Chamerian issue**. The existence of the Chamerian issue is a matter of international public law and represents an incomplete obligation of Greece both in bilateral relations (towards Albania as a state occupied by the same aggressor, therefore a victim state) and multilateral relations (toward the EU and NATO member countries). The Chamerian issue is a matter of human rights and is related to the denial of rights of a population that is an ethnic minority, to return to its territories from which it was forcibly displaced approximately seventy years ago.¹³⁴

Conclusions and recommendations

The treatment of the Albanian Chamerian community by the Greek state before and after the Second World War is of particular significance for international law and the parties involved in the process. It is of interest to international law because it raises questions on the potential commitment of the crime of genocide and/or crimes against humanity for the parties involved in this process as well, specifically the Albanian Chamerian community, the Albanian state and Greek state. The recognition or denial of the offenses committed against this community could have judicial consequences, both criminal and civil, even in the present day.

To provide a clear and summarized picture of the crimes against the Albanian Chamerian community during and after the second world war, in the content of the chapters of this paper we have analyzed with careful attention the treatment of the historical background of the “*Chamerian issue*”, the substantive judicial criminal analysis of the crime of genocide and crimes against humanity, under the interpretation of the provisions of the Genocide Convention, Rome Statute and other international acts of international instruments with binding force for implementation, the procedural obstacles of investigation and judgment of acts undertaken against the Chamerian community and suspected as genocidal crime and/or crimes against humanity, as well as the detailed treatment of the right of property of the Chamerian community, the current possibilities for exercising those rights and the potential for restitution, drawing on positive examples from other countries and the guiding principles of the ECHR.

At the conclusion of each chapter, the analysis leads to the following findings:

¹³⁴ Agron Alibali, “The Constitution, Europe and Chamerian Community” Institute of Chamerian Studies, Iceberg, Tirana, 2013, p. 98.

1. Based on the historical and academic data, as well as taking into consideration the claims of the Albanian Chamerian community, the essence of the “*Chamerian issue*” can be divided in two different dimensions, yet with a common denominator: the acts carried out against the Chamerian community before and after the Second World War by the Greek state. The first direction consists in the analysis whether the actions against the Chamerian community during the period 1912-1945 constitute a crime against humanity or genocide according to the international law, and the second dimension is related to the analysis of the property right of this community affected practically and legally by the Greek government during 1912-1945, the chances of enjoying this right currently, as well as the prospects of restitution of this community.

2. relating to the stance of the parties in the “*Chamerian issue*”, Albania and the Chamerian community maintain that Greece should acknowledge responsibility for the illegal acts committed against the Chamerian population, and therefore the population located in Albania should have the right to return to its territories, reclaiming the property rights it lost before and after the second world war because of the Greek policies. However, Greece has consistently refused to engage in discussions on the “*Chamerian issue*” at the diplomatic or political level. This refusal obstructs constructive dialogue and prevents the final resolution of the issue.

3. Regarding the aspect of practical materialization of the criminal offences of genocide and crimes against humanity against the Chamerian population during the period 1912-1945, we assess that the formal material elements of the article 6 and 7 of the Rome Statute are fulfilled. However, this alone is insufficient to conclude that these criminal offenses have been fully consummated in practice, as additional evidence of probative value is required. Such evidence must be obtained by the competent investigative authorities in strict accordance with the procedures and criteria established by the relevant legal instruments.

4. Regardless of the above conclusion, which is purely judicial in nature and is materialized only through judicial decisions by the competent court, a hopeful precedent for the Chamerian community is the case of the recognition of the Armenian genocide by the Parliamentary Assembly of the Council of Europe. This recognition is mostly of political nature and does not bring judicial consequences as could bring a decision of the International Criminal Court, but it could contribute to the creation of cooperation bridges between the parties for the eventual resolution of the “*Chamerian issue*”.

5. The provisions governing the crime of genocide and crimes against humanity identify certain similar modes of commission of these offenses. Specifically, they include killing and causing serious bodily or mental harm, while affecting more than one protected legal interest. This provision highlights the doctrine of concurrence of these two criminal offenses (if the perpetrator/author of the acts is the same). Thus, taking into account the fact that the acts committed against the Chamerian community infringe upon more than one legal relationship and fulfill the objective element of the crime of genocide and of crimes against humanity, as well as the fact that their authorship belongs to the Greek state, based on international law and

international jurisprudence, the perpetrator will bear responsibility both for the commission of genocide and for crimes against humanity, since these two international criminal offenses coexist and are not absorbed by one another.

6. In the analysis of the Rome Statute, it is impossible for the International Criminal Court under the Principle of Non- Retroactivity to investigate and adjudicate acts committed against the Chamerian population during 1912–1945. This limitation is explicitly stated in the statute, where it is provided that no individual shall be held criminally responsible according to this statute for actions committed prior to its entry in force.

7. In contrast to the temporal limitation of the International Criminal Court's jurisdiction, the Statute's provision regarding the non-immunity of high-ranking state officials in cases falling within the Court's jurisdiction is a favorable rule. It does not prevent the investigation of unlawful acts for which there is reasonable suspicion of constituting crimes against humanity or genocide. However, in practice, this provision does not apply to the "*Chamerian issue*" due to the passage of time and the inability to satisfy the Statute's judicial criteria.

8. Concerning the property rights of the Chamerian community, it is concluded the properties of this community acquired during the Ottoman Empire have been through a prolonged process of transformation and violation. A process that has been justified by the Greek state as a consequence of the practical needs and circumstances of the time that have been concluded with approval of laws, mechanisms that do not diminish the infringement of the Chamerian community's property rights, but that could very well serve as incentives for the Greek state to provide a final resolution to the property claims of the Chamerian community.

The ECHR's ruling in '*Loizidou v. Turkey*' offers an encouraging perspective concerning the current situation of the Chamerian community's property issues. Despite the absence of political will on the part of the Greek side to address these property problems and the time elapsed, the Chamerian community itself, or the Albanian state, may appeal to the ECHR regarding violations of Article 1 of the European Convention on Human Rights, but solely with respect to the continuing alleged violations of the Chamerian community's property rights following Greece's ratification of the ECHR.

Meanwhile, the restitution of properties to the former Jewish owners after the Second World War represents a practice that has guaranteed in a form of acceptable standard the property right, as one of the fundamental human rights. This process has been a process initiated through the political will of the state. This element is missing by the Greek state when it comes to the requests of the Chamerian community for the repartition of the property and its compensation in case it is impossible to be returned to the population. In this context, a good example for Greece is the United States of America, which through their Congress approved the resolution of June 17, 2009, through which they officially condemned legalization of slavery and racial discrimination in the USA. Also, on June 21, 2006 Canada issued an official apology for the

inhumane treatment done against the Chinese immigrants at the beginning of the past century through the Head Tax. In 1988, the U.S. Congress apologized for the collective internment of Japanese Americans during the Second World War; in 1993, it apologized to residents of Haiti for the overthrow of their king; and in 2008, it apologized to Indigenous peoples of the United States. Likewise, Greece, in addressing the so-called “*Chamerian issue*,” should act in the spirit of healing the wounds of the past and providing restitution.

9. The materialization in practice of the restitution of the Chamerian community as well as their property rights necessarily the political and state will of the Greek state. Implementing this process would make Greece a state that shows respect towards the democratic values upheld by international organizations, of which it is a member and gives its contribution for the preservation of peace and guaranteeing human rights, and finally resolve a long-standing and highly problematic issue.

10. Finally it is concluded that the Treaty of Friendship between Albania and Greece which committed the countries to ensuring peace between them, has terminated on March 31, 2025. In these conditions the judicial effects of the Law of War become relevant. The existence of this law generates tensions between the relations between Greece and Albania and simultaneously makes Greece a country that does not fulfill its obligations according to the international law, which prohibits the use of force against territorial integrity or political independence of any country.

Following the above conclusions, with the intention of fully resolving the “*Chamerian issue*” it is **suggested that:**

- The intensification of efforts of the Albanian state, and also of the international powers for the repeal of the 1940 Law on the State of War. The repeal of this law removes barriers to open communication and cooperation in line with the European perspective of both countries.
- The intensification of efforts of the Albanian state to achieve recognition by Greece for the unlawful acts undertaken against the Chamerian community before and after the Second World War and the assessment of the chance of their restitution, enjoying the property right, or where restitution is impossible, finding the right compensation policies. For this function, interstate commissions can be created including representatives from the European Union.
- The intensification of efforts of the Albanian state to achieve recognition of genocide and crimes against humanity, committed against the Chamerian community, by the Parliamentary Assembly of the European Council, following the example of recognition by the PAEC of the Armenian Genocide of 2013. Although such recognition is an uphill battle, it does not carry the legal effect that includes the recognition of a judicial authority, it may reflect a diplomatic or political function that can foster cooperation for the normalization of relations between the parties in the future.

- Both the Greek and Albanian states take measures to permit commemorative activities. These initiatives would positively affect the community by acknowledging historical truths and better preparing it for future challenges, within the framework of respecting and safeguarding fundamental human rights and freedoms. In this context, the recognition and observance of June 27 as a day of remembrance for the Chamerian genocide could constitute an initial step.

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Abstract

This thesis examines the acts committed against the Chamerian community during 1912-1945. This thesis evaluates whether these atrocities satisfies the legal criteria for crimes against humanity and/or genocide under contemporary international law, and whether displaced individuals possess a legal basis for repatriation or property restitution. This paper is divided into; firstly a historical background, then an analysis of international criminal legal frameworks, procedural barriers and limitation of international jurisprudence and an evaluation of the property rights and a possibility for repatriation for the Chamerian community. Based on the historical and legal sources, the paper concludes that, when viewed through modern legal frameworks, the actions committed against the Chamerian population between 1912–1945 satisfy the elements of Crimes Against Humanity and, potentially, Genocide. However, the events fall outside the temporal jurisdiction of the ICC and other international criminal courts. The prosecution is limited by the Principle of Non- Retrospective under the Rome Statute. Only once diplomatic channels are fully normalized can discussions of recognition, repatriation, and restitution meaningfully advance.

Diese Arbeit untersucht die zwischen 1912 und 1945 an der Tschamerischen Bevölkerung begangenen Taten. Sie bewertet, ob diese Gräueltaten die rechtlichen Kriterien für Verbrechen gegen die Menschlichkeit und/oder Völkernord nach geltendem Völkerrecht erfüllen und ob Vertriebene einen Rechtsanspruch auf Rückführung oder Restitution ihres Eigentums haben. Die Arbeit gliedert sich in drei Abschnitte: zunächst den historischen Hintergrund, gefolgt von einer Analyse der internationalen strafrechtlichen Rahmenbedingungen, verfahrensrechtliche Hürden und Grenzen der internationalen Rechtsprechung sowie eine Bewertung der Eigentumsrechte und der Möglichkeit einer Rückführung für die Betroffenen. Auf Grundlage der historischen und rechtlichen Quellen kommt die Arbeit zu dem Schluss, dass die Taten die Merkmale von Verbrechen gegen die Menschlichkeit und möglicherweise auch von Völkermord erfüllen. Die Ereignisse fallen jedoch nicht in die zeitliche Zuständigkeit des Internationalen Strafgerichtshofs, da die Strafverfolgung durch das Rückwirkungsverbot gemäß dem Römischen Statut eingeschränkt ist. Wenn die diplomatischen Kanäle vollständig normalisiert sind, können Diskussionen über Anerkennung, Rückführung und Wiedergutmachung sinnvoll vorangebracht werden.

