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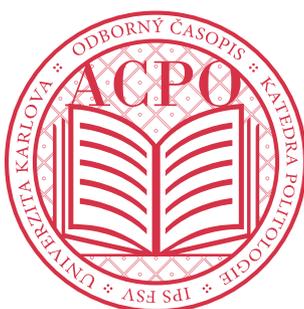
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## State Capture, Party Patronage and Unfair Electoral Processes: The Typical Case of Election Conduct in Albania

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### Abstract:

*This paper aims to analyse the relationship that exists between state capture, party patronage, and the conduct of electoral processes in the settings of post-communist countries, of which Albania is one. A characteristic of the political developments of the transition period in many post-communist countries has been the phenomenon of state capture, which has occurred mainly through the endemic party patronage and politicization of state institutions. The phenomenon of state capture by the ruling political parties has had a negative conditional impact on the conduct of competitive, free and fair elections in these countries, leading to distrust regarding the credibility and integrity of the process. This study argues that phenomena such as state capture and extensive party patronage as informal practices/mechanisms in the hands of the ruling political parties affect the creation of a skewed playing field and the production of hyper-incumbency advantages in holding electoral contests between political parties, making the possibility of political power rotations difficult. Albania, in the case of its last parliamentary elections, held on 25<sup>th</sup> April 2021, constitutes the case study (Section IV) to which the theoretical framework of the paper is applied, by identifying the informal practices and methods through state capture that the ruling political party used to provide structural, institutional, and financial advantages in its favour regarding elections.*

**Key Words:** *Democracy; State Capture; Party Patronage; Ruling Parties; Hyper-incumbency Advantages; Skewed Playing Field; Unfair Elections*

### I. Introduction

Since the fall of communist regimes in the countries of Central and Eastern Europe, of which Albania was one, various authors within the paradigm of democratic transition presumed that it would end the party's almost absolute control over the states and their respective societies; would lead to reform and restructuring of the state by reducing the role that the ruling parties and elites would have over it; and consequently, would open the way to

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guaranteeing competitive, free and fair elections. However, a decade after the overthrow of these communist regimes, in a prominent article published in 2002 in *Journal of Democracy*, Andreas Schedler warned of the danger that elections would become a tool of authoritarian powerholders seeking to legitimize their rule in countries involved in the so-called “*third wave*” of democratization. Schedler pointed out clearly “the danger of forgetting that the modern history of representative elections is a tale of authoritarian manipulations as much as it is a saga of democratic triumphs” (2002: 36). Some phenomena observed and admitted as such in many post-communist countries, especially in the Western Balkans, are that new forms of authoritarianism reappeared even after the overthrow of their dictatorial regimes; the reform and restructuring of the state to reduce the “privatizing” and “colonizing” role that the ruling parties and elites could have over it did not prove to be so successful; and that the various legal, administrative and political reforms undertaken in the course of depoliticization of public administration and the state resources in many Western Balkans countries have been rather instrumental and have served to further consolidate the power position of the ruling parties. As Mair expressed in this regard, the enormous role that parliamentary parties had in the transition meant that they could legislate for their own benefit: by creating new institutions and discretionary powers, these parties could build in statutory and informal privileges (Mair, 1995) for themselves. In other cases, this enormous role that the new parliamentary parties enjoyed in many post-communist states was also used to slow down or prevent legal formalization of mutual constraints and to continue to seek private benefits from the public domain of the state (Grzymala-Busse 2003: 1124, 1131), relying increasingly on informal mechanisms and constraints in their competition for power.

These “new” parties created during the post-communist period, through informal practices and informal networks within them, as Wedel has pointed out, “have shaped – and continue to help shape – many of the crucial economic, political and societal developments in Central and Eastern Europe and the former Soviet Union, including patterns of privatization and ownership, the distribution and the management of resources, the structure of influence and perhaps the very nature of governance and the state” (Wedel 2003: 428). In many cases, especially in the Western Balkans countries, a distinctive feature of the political developments of their post-communist transition period has been the phenomenon of *state capture*, which has occurred mainly through endemic party patronage, politicization of the administrative/bureaucratic apparatus of the state, and the political use of state resources (Hellman, 1998; Goetz, 2001; Pesic 2007; Kraske, 2017; Dzankic, 2018; Lemstra, 2020). These phenomena have had a direct and conditional negative impact on the conducting of competitive, free and fair elections in these countries, calling into question the credibility and integrity of the process. This study argues that phenomena such as state capture and extensive party patronage as informal practices in the hands of the ruling political parties significantly affect the creation of an uneven playing field and the production of hyper-incumbency advantages in holding electoral contests between political parties, making the possibility of political power rotations extremely difficult. The parliamentary elections held on 25 April 2021 in Albania will constitute the case study to which the theoretical framework of the study will be applied, by identifying the informal practices and methods through state capture that the ruling political party used to provide structural, institutional, and financial advantages in its favour in the elections.

Regarding the purposes of using the case study method – which we employ in this study to highlight the role played by state capture and extensive party patronage as

informal practices/mechanisms in the creation of a skewed playing field and the production of hyper-incumbency advantages in holding electoral contests – some methodological considerations should be emphasized. As Lijphart (1971) has pointed out, the case studies can serve a variety of purposes, often simultaneously. Vennesson has identified four main types of the use of case studies in social sciences, each corresponding to a different purpose. First, the descriptive case study (configurative-ideographic) is a systematic description of the phenomena with no explicit theoretical intention (Vennesson 2008: 227). Second, the interpretive case study (disciplined configurative) uses theoretical frameworks to provide an explanation of particular cases, which can lead also to an evaluation and refinement of theories. Third, the hypothesis-generating and refining case study (heuristic) seeks to generate new hypotheses inductively and/or to refine existing hypotheses. Here, the researcher can clarify the meaning of certain variables and the validity of empirical indicators, suggest alternative causal mechanisms, and identify overlooked interaction effects. Fourth, theory-evaluating case studies are used to assess whether existing theories account for the processes and outcomes of selected cases (Vennesson 2008: 227-228). In our case in this paper, we have taken interest in Albania's parliamentary elections because they appear to be helpful for informing the theory – over the hyper-incumbency advantages in (unfair) electoral contests through state capture and extensive party patronage – to see whether its statements hold true. Thus, our use of case study methodology involves both interpretative (the second purpose) and theory-evaluating interests (the fourth purpose) for the theoretical framework we provide in section III of this study.

This paper is organized in four sections. The following section (II) provides the theoretical and normative considerations (along with the relevant dimensions and indicators) of when elections can be considered free and fair, and what are the related strategies where democratic norms in the conducting of elections are violated [which is also the dependent variable of this study]. In section III, a theoretical perspective of this paper is provided by building on the theoretical insights of the main authors in the field, highlighting the negative impact that state capture and extensive party patronage [the two independent variables of the study] have on the conduct of distorted electoral contests in a skewed playing field by producing hyper-incumbency advantages that are difficult to overcome by challenging opposition parties, regardless of the strategies they choose or their electoral offer. In section IV, the conduct of the parliamentary elections held in Albania on 25 April 2021 is taken as a case study, where we identify the informal strategies, mechanisms, and methods that the ruling political party in Albania used to gain hyper-incumbency advantages over the opposition forces through the “capture” of state institutions, endemic party patronage, and the political use of the state resources that skews the playing field (the fairness) of electoral competition in its favour. In this section, we also explain why the case of the last parliamentary elections held in Albania was chosen as a case study of this paper.

## **II. Theoretical and Normative Considerations about “Free and Fair” Elections and Related Strategies for Their Violation**

If we could identify consensus between scholars within the theories of democracy, there would be an agreement in defining that democracy is a multi-faceted concept (Bernhagen 2009: 35), and that the elections are the most essential components to a well-functioning democracy. However, what needs to be emphasized about elections and what makes

democracy (or the classification of different regimes as democracy) an “essentially contested concept”<sup>2</sup> or enterprise is that not every country that holds elections, even in regular periodic ways, can be classified as a democracy. As Andreas Schedler has pointed out, “democracy requires elections, but not just any kind of elections. The idea of democratic self-government is incompatible with electoral farces. In the common phrasing, elections must be ‘free and fair’ in order to pass as democratic” (2002: 38). In this sense, a set of norms and principles must exist and be applied in practice in *all the circumstances* so that we can classify the elections held in a given country as democratic, and they must offer citizens free, equal, and unhindered opportunity of effective choice to elect their future political leaders.

Concerning the electoral component of democracy, the *openness, competitiveness, and fairness* between the parties involved in the political contest are critical dimensions to fulfil their standards, norms, and the democratic ideal. Following Robert A. Dahl and Guillermo O’Donnell, two authors who probably gather the most consensus on the definition of democracy, the democratic ideal of elections requires that: all citizens enjoy “unimpaired opportunities” to formulate their political preferences; they are “free” to make real choices, in that citizens are not coerced when making their voting decisions and when voting; to “signify” them to one another; and to have them “weighed equally” in public decision-making, in that each vote should count equally, and be counted as such without fraud, irrespective of the social position, party affiliation, or other qualifications of each voter (Dahl 1971: 2; O’Donnell 2001: 12-13). Building on these criteria and norms of these authors, Andreas Schedler has outlined seven democratic conditions that must exist if the “free and fair elections” are to fulfil the standard of effective democratic choice. These conditions also serve as a way to measure the conduction of electoral contests when they can be considered as “free and fair” and pass the democratic test in certain countries, or when they cannot be considered as such since they violate one or more of the constitutive norms that make elections truly democratic. In this sense, Schedler’s conceptualization of elections has the advantage that it offers relevant dimensions and indicators for measuring the democratic norms of elections that take place in certain countries. In addition to them, Schedler also lists the potential strategies for the violation of these democratic norms, which in one way or another give governments or incumbent elites an advantage over their opponents in electoral contests (see Table I below). The identification of different electoral containment strategies that the incumbents use to violate one or more of the constitutive norms (dimensions) of the elections also helps to identify the specific problems regarding the conduct of electoral processes in each country (which can range from naked repression by the government in restricting the political and civil liberties of citizens to the exploitation of privileged access to state resources by the ruling party, or the corruption of the electorate by buying their votes). Likewise, Schedler’s conceptualization of elections offers opportunities for scholars to address the causes of the unfairness of different strategies/tactics (electoral containment strategies) used by the incumbent parties in the conduct of elections, and the shifts of pursuing such strategies from one election to another.

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<sup>2</sup> The term “essentially contested concept” was first introduced in March 1956 by Walter Bryce Gallie, who asserted that some concepts admit of no one authoritative definition because they are essentially the focus of different accounts.

**Table I: The Chain of Democratic Choice**

	Dimensions of Choice	Normative Premises of Democratic Choice	Strategies of Norm Violation
1	The object of choice	<i>Empowerment</i> : Democratic elections involve the delegation of decision-making authority.	<ul style="list-style-type: none"> <li>• <i>Reserved positions</i>: limiting the scope of elective offices</li> <li>• <i>Reserved domains</i>: limiting the jurisdiction of elective offices</li> </ul>
2	The range of choice	<i>Freedom of supply</i> : Citizens must be free to form, join, and support conflicting parties, candidates, and policies.	<ul style="list-style-type: none"> <li>• <i>Exclusion of opposition forces</i>: Restricting access to the electoral arena</li> <li>• <i>Fragmentation of opposition forces</i>: disorganizing electoral dissidence</li> </ul>
3	The formation of preferences	<i>Freedom of demand</i> : Citizens must be able to learn about available alternatives through alternative sources of information	<ul style="list-style-type: none"> <li>• <i>Repression</i>: restricting political and civil liberties</li> <li>• <i>Unfairness</i>: restricting access to media and money</li> </ul>
4	The agents of choice	<i>Inclusion</i> : Democracy assigns equal rights of participation to all full members of the political community.	<ul style="list-style-type: none"> <li>• <i>Formal disenfranchisement</i>: legal suffrage restrictions</li> <li>• <i>Informal disenfranchisement</i>: practical suffrage restrictions</li> </ul>
5	The expression of preferences	<i>Insulation</i> : Citizens must be free to express their electoral preferences.	<ul style="list-style-type: none"> <li>• <i>Coercion</i>: voter intimidation</li> <li>• <i>Corruption</i>: vote buying</li> </ul>
6	The aggregation of preferences	<i>Integrity</i> : One person, one vote. The democratic ideal of equality demands weighting votes equally.	<ul style="list-style-type: none"> <li>• <i>Electoral fraud</i>: “redistributive” election management</li> <li>• <i>Institutional bias</i>: “redistributive” electoral rules</li> </ul>
7	The consequences of choice	<i>Irreversibility</i> : Elections without consequences do not qualify as democratic.	<ul style="list-style-type: none"> <li>• <i>Tutelage</i>: preventing elected officers from exercising their constitutional powers</li> <li>• <i>Reversal</i>: preventing victors from taking office, or elected officers from concluding their constitutional terms</li> </ul>

**Source:** (Schedler 2002: 39).

Taken together, these conditions constitute the possibility of effective democratic choice of citizens in a democratic system, but, on the other hand, in practice, there is also the possibility that one or more of these norms are violated through different strategies that political incumbents use. Just as Schedler has best expressed it through his metaphor, taken “together, these conditions form a metaphorical chain which, like a real chain, holds together only so long as each of its links remains whole and unbroken” (Schedler 2002: 40). Likewise, we can also say, using another metaphor on democracy, that these conditions enable that parties in the political contest to adhere to the same equal and fair rules of “the only game in town”. A brief explanation of the importance of normative conditions and premises for democratic choice is outlined (in Table I) by Andreas Schedler while potential strategies for their violation in practice are given below.

1) *Empowerment of Citizens*. First of all, elections place in the hands of the sovereign the power to decide who will be the elected officials/political authorities, to whom the decision-making authority is delegated for a certain period

of time. According to this norm, there can be no restrictions on the sovereignty that people can exercise to elect their decision-making authority – either through *reserved positions* (e.g., enabling certain public authority positions to be elected and some others not) or through *reserved domains* – that limit the effective decision-making power of the authorities whom people have elected. As Schmitter & Karl have determined in relation to this condition, elected officials should be able to exercise their constitutional power without limitation by any other reserved domain (1991: 224-225).

2) *Free Supply*. The idea of competitive elections presupposes the freedom to form and join different political parties/associations, as well as the existence of various political alternatives to be elected by the citizens. In this sense, any obstacle that may be placed to restrict the right of citizens to choose between different political alternatives and the right of (opposition) parties to organize and participate freely and fairly in elections, whether through legal instruments or other informal means, is a violation of democratic norms. As Schedler has emphasized on strategies that violate this democratic norm, often “ruling parties hand-tailor legal instruments that permit them to exclude opponents from electoral competition” (2002: 42). These strategies that *restrict the possibility of opposition forces to access the electoral arena* of the incumbents are unfair in that they create an uneven playing field between the parties and produce hyper-incumbency advantages.

3) *Free demand*. For citizens’ choices to be democratically effective and meaningful, it does not have to revolve around a “controlled” set of political alternatives, but essentially, it must be well-informed. To be such, citizens must have the possibility to learn about available political alternatives through different alternative sources of information, and political parties must have fair access to public space. Often, the strategies that the incumbents use to break this norm have to do essentially with the *unequal and dishonest access* that they enjoy to the state’s abundant resources and the media. “This unfairness has to do with money and the media. Usually, electoral authoritarians enjoy ample access to public funds and favorable public exposure. The whole apparatus of the state—often including government-run media—is at their beck and call, and they often can harass or intimidate privately owned media organs into ignoring opposition candidates (Schedler 2002: 43).

4) *Inclusion*. Probably the most significant condition regarding democracy, it has to do with the equal right of the vote and participation of citizens in the polity. Strategies that can be followed to violate this democratic norm are probably even more tangible as they involve in some cases (although rare nowadays) *legal suffrage restrictions* [e.g., to certain minorities or communities], but above all with *practical and informal suffrage restrictions* on citizens, which is often done through subtler ways by political incumbents and for the purpose of gaining advantages over oppositional forces.

5) *Insulation*. This is also a very important normative premise for the effective democratic choice of citizens, as it presupposes that they should be able

to express their preferences insulated from any form of external *pressure or coercion*. Regarding this condition, the strategies used by the ruling parties to violate the democratic norm of free choice of citizens and gain an advantage are even more diverse, often taking different and subtler forms, from *intimidation of voters, pressure on them, vote-buying* etc., that ultimately distort the electoral competition.

6) *Integrity*. Democracy presupposes equal voting rights among members of the polity, from the moment that the election rules are set to the moment when citizens cast their votes at the ballot box, and up to the process of administration and management of the electoral process. Here, the strategies that the incumbents can use to violate this democratic norm range from “*redistributive*” *practices* involving various forms of electoral fraud to “*redistributive*” *rules of representation* that include institutional bias and give a dishonest advantage to incumbents in translating [their] votes into parliamentary mandates. As Andreas Schedler has expressed regarding this norm violation, “authoritarian incumbents also can institute self-serving rules of representation granting themselves a decisive edge when votes are translated into seats... they impose strongly “*redistributive*” rules to keep an eventual loss of votes from turning into a loss of power (2002: 45).

7) *Irreversibility* is the condition and principle that presupposes the consequences that election results can produce in the polity. This means that democratically elected officials who are granted power (to whom it is delegated) by the citizens cannot be *restricted from exercising their constitutional powers*, much less they can be *prevented from taking office* by other “*powers*” within the polity.

Only countries that fully meet the above standards can be classified as meeting the ideal of conducting free and fair elections in their settings. All these normative premises and conditions, as the metaphor of the chain by Schedler (2002) illustrates, make sense provided they complement and support each other and cannot be taken as separated from each other. But in practice, as we will argue in section III, incumbents’ parties or authoritarian elites often choose different tactics/strategies for violating these norms, which ultimately aim to give them a dishonest advantage over opposition challengers and distort the electoral competition by creating an uneven playing field and making the possibility of political power rotations difficult.

### **III. The Relationship Between State Capture, Party Patronage and the Conduct of Electoral Processes in Post-Communist Countries**

One of the main features that has characterized the developments and, in essence, the very defective nature of the new democratic regimes in many post-communist countries is the conduct of problematic elections that do not provide equal and fair conditions for the political parties in the competition. The fall of the communist regimes was presumed to bring an end to the merging of ruling party and state, which had essentially created extreme politicization, a weakening of the state’s infrastructural capacity, and bloated state structures. However, what was discerned in practice is that “the aftermath of the fall of

communism was an ‘open historical situation’—a period of immense change in which structure is so in flux that it provides myriad possibilities... During such precarious moments of legal, administrative, political and economic transformation, old systems of social relations, such as the informal groups and networks [and systems] that functioned under communism and helped to ensure stability, could become crucial instruments of change” (Wedel 2003: 429). As a result of the structural and institutional weakness of the state, largely inherited from the previous communist period, the inability/incapacity during the democratization period to establish programmatic (and ideological) linkages with certain segments of the population as a way to mobilize the electorate and to secure votes, also faced with the pressure to win elections in the new democratic context where the outcome was uncertain, post-communist political parties increasingly developed and relied on informal practices/mechanisms as strategies to secure their grip in power.

Regarding the negative phenomena and protracted non-consolidation that many of the new post-communist democracies have encountered in their settings, Rose and Shin argued that the biggest problem of *third-way countries*<sup>3</sup> [which also includes the post-communist countries] is that they have democratized backwards. These authors point out that third-wave democracies have started their democratization backwards, “introducing free elections *before* establishing such basic institutions of modern state such as rule of law, civil society and accountability of governors ... The sequence in which countries develop a modern state and introduce democratic elections has differed radically between waves of democratization”. (Rose & Shin 2001: 333). In the countries of the first wave of democratization, these two authors argue, the process of creation and consolidation of the modern state, along with its constituent components [such as *the rule of law, multiple institutions of civil society*, as well as to some extent, the *horizontal accountability of governors/elites* towards some other powers/institutions], took place before their political parties faced electoral pressure to secure votes and stay in power, which is essentially the main goal of every political party. Third-wave post-communist countries, on the other hand, reflected in their settings the spread of competitive elections [in 1990-1991] without having institutionalized the main components of the modern state (Elklit & Svenson 1997; Rose & Shin 2001: 334). As such, they begin their democratization with weak states, with ineffective, not autonomous, and highly politicized bureaucratic apparatus.

The above argument of democratization backwards of many of the third-way countries and the [easier] politicization of the state and its institutions by political parties in post-communist settings is a reformulation and expansion of the central explanatory variable given by Martin Shefter (1977; 1994) in his theory on political parties and patronage. The main argument of Shefter’s theory is that where mass franchise predates bureaucracy-building, parties that arise within the legislature will have the greatest opportunity and incentive to politicize the state (Shefter, 1994). In his theory, Shefter states that the ability of the political parties to rely on patronage and clientelism is limited in those countries where the civil service is professionalised before the extension of franchise within the mass electorate, and it is much more widespread in those countries where the mass enfranchisement predated bureaucratization reform and the development of a modern [Weberian]

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<sup>3</sup> Referred to the term that became quite prominent after the publication of the book “*The Third Wave: Democratization in the Late Twentieth Century*” (1991) by Samuel Huntington, with which he describes a global trend that has seen more than 60 countries throughout Europe, Latin America, Asia, and Africa undergo some form of democratic transition since Portugal’s “Carnation Revolution” in 1974.

state. Thus, for Shefter (1977) the success or failure of party patronage and party rent-seeking is related to the institutional and the structural context of the state (apparatus) in which political parties operate<sup>4</sup>. In the settings of some post-communist countries [especially in the Western Balkans] with underdeveloped and politically handled public bureaucracies, the incumbents' political parties find it easier to control the state's institutional infrastructure along with public funds to use them for their own political gain. Gomez emphasizes in this regard that a large state and a politically quiescent public bureaucracy mean that the party's hegemony allowed it access to state rents and resources that can be disbursed to develop a powerful party base" (Cited in Greene 2007b: 30). In the same vein, Kenneth Greene talks about the "appropriation of the government" by the incumbent [dominant] parties, arguing that "opportunities for generating patronage are regulated by the size of public sector and the degree of political control over the bureaucracy" (2007a: 98-99).

In many post-communist countries where "new" political parties began to operate in a context of structural and institutional weakness of the state [largely, inherited from their previous communist period] and where the bureaucratic apparatus was not formalized, they found it easier to "capture" the state institutions and to develop informal norms and mechanisms in their competition for power. The state structures recently emerging from systems of authoritarian rule often lacked the autonomy to resist the encroachment of political elites attempting to use the state for 'private' purposes (Cited in van Biezen & Kopecky, 2007: 241). In addition to this context, in many post-communist states new parliamentary parties also used the enormous role they enjoyed to hinder further the legal formalization of mutual constraints and to continue to seek private benefits from the public domain of the state (Grzymala-Busse, 2003: 1124,1131), relying increasingly on informal mechanisms, norms, and constraints (such as purging each other 'supporters from state posts) in their competition for power. These informal mechanisms, norms, and constraints that many of the post-communist political parties have developed in their settings can be summarized in the competitive element in what Mungiu best calls "competitive particularism" (Mungiu 2006: p. 94), where inter-party competition politics remain motivated mostly by access to state assets and resources.

The dominance of one political party over another persists precisely when the incumbents can use their control over the government and state (public) resources to generate hyper-incumbency advantages (Greene, 2007b: 7). The argument given by Greene here is that incumbent [dominant] parties can generate partisan resources from the direct use of public budgets and state administrative resources [especially from years of their uninterrupted control of state apparatus] through various ways<sup>5</sup> that are illicit and dishonest, and that fundamentally skew the playing field in their favour. The more one party is unusually strong or entrenched in the state structures, the easier it is for such a dominant party to politicize the state and capture its resources, to control institution building, and to privilege itself unchallenged (Hellman 1998) in electoral contests with their opposition challengers. In this sense, the institutional and structural context of the state, along with the opportunity

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<sup>4</sup> See also in Ingrid van Biezen & Petr Kopecký (2007), *"The State and the Parties: Public Funding, Public Regulation and Rent-Seeking in Contemporary Democracies"*, p. 241

<sup>5</sup> For the types of illicit public resources that Greene refers to as dominant parties use for partisan purposes, see in Kenneth F. Greene (2007b), *"Creating Competition: Patronage Politics and The PRI's Demise"*, pp.7-8; and in Kenneth F. Greene (2010), *"The Political Economy of Authoritarian Single-Party Dominance"*, p. 811-812.

to generate economic resources for partisan purposes from its institutions, matters a great deal in the development of electoral competitions between political parties. The easier for the incumbent parties in such contexts to politically control the public administration and the infrastructural capacity of the state (by capturing its institutions/agencies and making them function on political lines), as well as to appropriate the state resources for their particularistic partisan purposes, the more they will be inclined to use them in favour of their unfair strategies in electoral contests by skewing the playing field. Greene emphasizes in this regard that: “When incumbents can access and use these public resources for partisan purposes, they can outspend competitors at every turn and make otherwise open competition so unfair that they virtually win elections before election day” (2010: 808).

The net effect of indiscriminate and asymmetrical access to state resources and costs is to bias voters in favour of the dominant [incumbent] party and make genuine elections substantially unfair (Greene 2007a; Magaloni 2006). Moreover, it should also be stressed that the more entrenched the incumbent parties are in the state structures by appropriating and politicizing them, the more resources and action opportunities they will have to mobilize and build patronage and clientelist networks that would bring those votes (unfairly) in the election. In this sense, the action opportunities that the incumbent parties have may range from shaping policies/funding programs in such a way that allows them to distribute particularistic material rewards to their supporters, to the employment of pork-barrel politics to targeted constituencies, to the discretionary expansion of the size of the public administration in order to exchange jobs for political support, to the use of the state institutions/agencies as kind of organizational networks for their parties to acquire knowledge about the political predispositions of the voters; to seek (informal and illicit) from economic interests dependent on favourable legislative or regulatory decisions by the government, etc. (See in Magaloni, 2006: 46-81, Grzymala-Busse, 2003: 1131).

Such a context of institutional weakness of the state administrative apparatus and gaining control of the structural mechanisms of the state (through expanding informal practices and networks within them) has been the setting under which many incumbent post-communist political parties [especially in the Western Balkans<sup>6</sup>] has operated, and from which they have benefited to solidify their grip on power. What has resulted in these post-communist countries from this legacy of political developments after the onset of their democratization process is the phenomenon of state capture in their settings, of “colonization” or appropriation of state institutions by political parties in order to extract their resources, use them for [particularistic] partisan purposes and private gains, and ultimately as a mean to consolidate and reproduce their political power.

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<sup>6</sup> About the process of state capture by the political parties in the Western Balkans, but also for other countries in Central and Eastern Europe see the works of Joel S. Hellman (1998), *“Winners Take All: The Politics of Partial Reform in Post-communist Transitions”*; Klaus H. Goetz (2001), *“Making sense of post-communist central administration modernization, Europeanization or Latinization?”*; Vesna Pešić (2007), *“State Capture and Widespread Corruption in Serbia”*; Marion Kraske (2017), *“State Capture in the Balkans – L’état c’est nous!”*; Nives Miošić-Lisjak (2017), *“Local Captured State – An Empirical View”*; Jelena Džankić (2018), *“Capturing Contested States: Structural Mechanisms of Power Reproduction in Bosnia and Herzegovina, Macedonia and Montenegro”*; Maarten Lemstra (2020), *“The Destructive Effects of State Capture in the Western Balkans”*; Transparency International (2020), *“Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey”*; Dušan Pavlović (2021), *“State Capture in the Post-Communist Southeast Europe”*; Transparency International & IDM (2021), *“Deconstructing State Capture in Albania: An Examination of Grand Corruption Cases and Tailor-Made Laws from 2008 to 2020”*.

Under such conditions, post-communist political parties found in the settings where they operated a more fertile ground to establish clientelistic ties with the electorate and expand their patronage networks in every (possible) state institution as a way to secure their grip on power by making it extremely difficult for political power rotations to occur. State capture refers to the process by which political actors appropriate (partially or thoroughly) and exploit state structures through informal mechanisms and networks that they penetrate within them for political purposes or their private gain. As Grzymala-Busse has stressed in relation to this, “a vital instrument of state capture is clientelism, which refers to the exchange of political and electoral support in return for material benefits through a relationship between political parties and citizens” (Cited in Lemstra, 2020:2) or other groups in society.

*“State-capture results in governance through clientelism and patronage networks accompanied by large-scale, high-level corruption. The nexus of corrupt elites, companies, and organized crime groups can capture the state through a combination of financial support to political campaigns, ‘sweetheart’ business deals, bribery, extortion, and rewards such as plum jobs to patronage networks. Governance, legislative and regulatory performance is then skewed to favour the interests of elite networks, while organizations and citizens who do not belong to those networks lose out” (FCO/Wilton Park Conference 2013: 3).*

Post-communist political parties, relying also on previous informal practices and networks that were widespread in their societies, as well as facing the uncertainty that the newly developed plural party system produced along with the pressure of winning elections (in a zero-sum political game, where winners take all), increasingly developed such undemocratic strategies as state capture, to secure their stay on power. As a report by Transparency International has evidenced, “state capture in the [Western Balkans] region is characterized by being driven mainly by political parties and the patronage and clientelistic networks that sustain them. It is a capture of the state from within that aims at capture not only for financial gain but also for political power by controlling the different branches of the government” (2020: 7). In this sense, state capture by political parties goes beyond the traditional understanding in the literature of this phenomenon as efforts to shape government policies for the purpose of interests and economic benefit of (corporate) agents, but as a deliberate strategy pursued by political parties in the contexts of the settings where they operate: in their states with weak infrastructural capacities, with ineffective bureaucratic apparatuses and which had not experienced any autonomy from the political sphere. State capture “is primarily about transmuting parties into political machinery to win elections, thus ensuring the incumbent remains in office” (Cited in Pavlovic 2021: 3). The problem of state capture and governance through informal mechanisms and networks is “systemic and structural and persists over an extended time period, thus causing significant social, economic and/or environmental harm and undermining the core democratic values” (Miošić-Lisjak, 2017: 56) and the democratic norms of electoral contests skewing the level playing field in the incumbents’ favour.

Patronage, on the other hand, as an element of state capture, is another strategy implemented by political parties to ensure their grip on power and the loyalty of their supporters. “Patronage is *the proffering of public resources (most typically, public employment) by office holders in return for electoral support*, where the criterion of distribution is again

the clientelist one: did you—will you—vote for me?” (Stokes 2011: 651). Even in this case, patronage as an electoral containment strategy pursued through informal mechanisms and practices (for example, employing on a nonmeritocratic basis and not on legal criteria) is deliberately pursued by political parties to ensure electoral advantage over opposition forces and for making the possibility of political power rotations difficult. “The administrative apparatus thereby functions... as the toolkit for the meticulous consolidation of power: The one allocating jobs in a country where there is normally no work available, creates an army of subordinate supporters, who all profit from the system of party patronage” (Kraske 2017: 3). This control by incumbent political parties, through patronage and clientelistic networks, to the resources and access to state institutions, has been done to the detriment of democratic processes, especially in holding free and fair elections that guarantee equal opportunities between the parties in the electoral competition. This is because the discretionary expansion of the size of the public administration by incumbents to deliver huge numbers of state jobs to their supporters and withhold them from opponents is an important strategic tool for the political control of the electorate, by threatening them through their workplaces, especially in those countries where the state plays a significant economic role or is the major employer in the economy (See in Greene 2007a: McMann 2006: p. 180).

The main argument here is that in those countries where state structures or informal mechanisms in which party patronage, clientelism, corruption, or the pursuit of particularistic interests by those who rule them prevail, the effectiveness of sanctioning the rules of the game that the democracy presupposes is compromised. In the cases where parties pursue electoral containment strategies of state capture and party patronage, the conditions and the normative premises [the chain of electoral choice cited above] of *free and fair elections* are all directly threatened. That is because the phenomenon of capturing state structures, or the use of public administration as a patronage source in favour of pursuing particularistic goals (e.g., for electoral advantage) by those in power, undermines inherently the legitimacy of these institutions and norms, thus preventing the standardization and depersonalization in following the rules and practices of the game implied by the democratic system (Sqapi 2019: 52). In the case of the elections, the combination of their institutionalization (as formal competition rules), together with the state capture by political parties in power, patronage, the pursuit of particularistic goals or any other informal rules/mechanisms (operating outside and contradicting formal rules and norms of the democratic regime) makes the competition ineffective, as the cases of many of post-communists’ countries nowadays show. Inasmuch as a democratic system is, by definition, one in which parties and candidates compete for office under the equality of conditions, the ability of incumbents to rely on patronage to gain the support of voters, that is, the use of public resources for partisan advantage, directly threatens the democraticness of a political process (Mazzuca & Munck 2014: 1235).

#### **IV. State Capture and Party Patronage as Main Strategies of Political Parties to Remain in Power: The Case of the Elections of 25 April 2021 in Albania**

Conducting free and fair democratic elections in Albania, since the beginning of political pluralism in 1991, has always been a problematic phenomenon, and they almost always have been contested by the political parties (in opposition) regarding irregularities, unfairness and, ultimately, also their integrity. Before identifying in this section the informal strategies, mechanisms, and methods that the ruling political party in Albania used to gain hyper-incumbency

advantages over the opposition forces through the “capture” of state institutions, endemic party patronage and the political use of the state resources, we need to explain firstly we have chosen the election held on 25 April in Albania as the case of this study.

Firstly, in the holding of elections, which during the past 30 years in Albania almost always has been problematic and contested, there has been gradually a shift in the electoral containment strategies pursued by the incumbent parties to secure unfair advantages over the opposition challengers: that is *from the authoritarian control and naked repression over the opposition forces* [e.g. by directly violating the civil and political freedoms of citizens, electoral fraud by stuffing ballot boxes, imprisoning oppositional supporters, the direct control of the media, etc.] towards *the using of more subtle informal practices and methods* [as strategies explained below here] that guaranteed them a structural, institutional, and resources (hyper-incumbency) advantages over the other competitors in opposition (which became more prominent as an electoral containment strategy in the past two parliamentary elections, held in 2017 and 2021). Secondly, Albania is one the very few countries in the Western Balkan countries where two main parties (Democratic Party and Socialist Party) have dominated the political scene alternating holding power between them in a context of what Mungiu (2006) has best described as “competitive particularism”, and with neither surviving for more than two consecutive terms in office. However, this precedent in Albanian politics felled with the Socialist Party winning its third consecutive governing term in the 25 April 2021 elections, being favoured by its hyper-incumbency advantages derived from its quasi-monopolistic control of public administration and the states’ resources. Third, at least two significant events before the 25 April 2021 elections in Albania enabled the ruling Socialist Party to play an almost dominant role in Albanian politics. The first event in this regard has to do with the handing over of parliamentary seats and the full boycott of Parliament on 18 February 2018 by the two main opposition parties<sup>7</sup> (Democratic Party and Socialist Movement for Integration), which enabled the Socialist Party to have almost total control of the legislature. The other event again has to do with the two main opposition parties’ complete boycott of the 2019 local elections, where the Socialist Party, in a virtually one-party election, won in 60 of the 61 Municipalities where these elections took place. These circumstances enabled the Socialist Party to rely even more in its overpowering and quasi-monopolistic control over the state institutions and resources to tilt the playing field in its favour, benefiting from its hyper-incumbency advantages. As Greene stresses in this regard, “in most competitive systems, divided government or limited tenure in office usually limits the impact of these distortions, but dominant parties control the government fully, do not suffer substantial checks by opposition parties, and expect to maintain power over the long term” (2007a: p. 39). For the above reasons<sup>8</sup>, the 25 April 2021 elections in Albania

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<sup>7</sup> The handing over of parliamentary mandates and the complete withdrawal from Parliament by the two main opposition parties (DP and SMI) came after the publication of wiretaps alleging the involvement of senior officials of the Socialist Party, appointed Socialist directors in collaboration with organized crime group exponents in vote-buying in the (partial local) election of 11 September 2016 in Dibra Municipality, and also for the case of general parliamentary elections of 2017 in Albania, which gave a second term in office to the Socialist Party.

<sup>8</sup> If we could give another (fourth reason) for the case study selection of 25 April election in Albania, it is that in its request to win a third consecutive governing mandate in Albania, the Socialist Party faced a generally difficult economic situation by the majority of its citizens due to the earthquake that hit Albania on 26 November 2019 and the consequences produced by the Covid-19 pandemic, as well as the political cost of a series of political scandals of ministers and senior officials in its government from 2013 to 2021. These reasons, related to the difficult economic situation in the country and the political costs of its governance, made it even more

constitute an interesting case of the hyper-incumbency advantages produced through different strategies pursued by the ruling party, leading thus to unfair competition between political parties and a skewed playing field.

These strategies pursued (or evolved) by incumbent parties in Albania have to do mainly with the informal mechanisms of *state capture* and *endemic party patronage*, which although they do not resort to naked repression and do not directly restrict the civil and political freedoms of citizens remain informal ways that affect the creation of an uneven playing field and produce hyper-incumbency advantages in the conduction of electoral contests between political parties, thus making the possibility of political rotations extremely difficult. As such, they are strategies that violate the democratic norms, as they affect the *fairness* and *equal competition* conditions between the political parties in electoral contests.

The principal strategy followed in this direction by the incumbent Socialist Party for the 25 April 2021 elections in Albania [which gave her its third consecutive term in office] to ensure its grip on power has been through *state capture*, which in practice has been done through various forms and mechanisms. This is also noted in the very first paragraph of OSCE/ODIHR final report on elections of 25 April 2021, where is stated that: “The ruling party derived significant advantage from its incumbency, including through its control of local administrations and from the misuse of administrative resources. This was amplified by positive coverage of state institutions in the media. Allegations of vote-buying by political parties were pervasive during the campaign and a high number of investigations were opened in this regard” (OSCE/ODIHR, 2021: 1). In practice, the various informal forms and mechanisms of state capture by the ruling Socialist Party to ensure an unfair electoral advantage over the opposition parties have ranged from the misuse of state funds and resources during the electoral campaign period; to the links with companies, business groups, or even those of organized crime through public tenders, concessions and Public–Private Partnership contracts (*‘sweetheart’ business deals*), which in turn finance to a large extent, informally and illegally, the political campaigns of the ruling party; to the use of the party patronage system which was essentially manifested through electoral employments and the mechanism of “patronage” of the vote of citizens. All these informal practices and mechanisms skewed the level of the playing field between the competing parties in the electoral contest and violated the democratic norms and premises of conducting free and fair elections, such as *unfairness* (restricting access to money and media), *informal disenfranchisement* (through practical suffrage restriction), and *coercion* and *corruption* of voters through intimidation and vote-buying, etc.

Regarding the politicization of state funds and resources by diverting them for partisan use in the case of the 25 April 2021 elections, the ruling Socialist Party has used it extensively as a method to provide an electoral advantage. Thus, in violation of Article 88 of the Albanian Electoral Code, which specifically prohibits the use of resources of central or local public institution for campaign purposes, as well as the recruitment, dismissal, release, movement or transfer in duty in public institutions or entities during electoral campaigns (CEC, Law No. 10019, 2021: 60), the Socialist Party used the earthquake compensation funds for the affected citizens in a targeted manner, precisely during the electoral campaign period, to buy electoral support from these constituencies. Thus, in the period between 1 January 2021 to

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exigent the need of the Socialist Party to rely on informal mechanisms/networks of control (politicization) of institutions and state assets (its hyper-incumbency advantages by capturing the state), in party patronage or pork-barrel projects as means (strategies) to survive in office.

25 April 2021, the government led by the Socialists allocated a budget of 15,430,836,420 ALL (about €124 million) for the 11 Municipalities affected by the 26 November 2019 earthquake in Albania to compensate affected citizens directly, while just one month before the elections (electoral period according to the Albanian Electoral Code), this fund – allocated for the compensation of citizens – was exclusively in the amount of 8,574,636,507 ALL (about €70 million)<sup>9</sup>. This represents a considerable amount in the allocation of these funds, which intensified with the approach of the election date, especially bearing in mind that the previous budget provided by the Socialist government for the compensation of citizens affected by the earthquake (for the period between 26 November 2019 until 31 December 2020), was largely insignificant. The use of governmental funds for post-earthquake reconstruction by the Socialist Party in power during the campaign period to provide an electoral advantage for becomes even sharper as a tactic bearing in mind that all Municipalities – to which these funds were distributed – were led by the Mayors and Municipal Councils of the Socialist Party (because of the boycott of the local elections of 30 June 2019 by the main opposition parties). Therefore, the incumbent Socialist Party also had the opportunity to “effectively” and “thoroughly” control in a targeted manner the distribution of compensation funds to citizens (precisely during the electoral period) and gained advantage by buying support and maximizing its vote share in the parliamentary election of 25 April 2021.

Moreover, another practice used for the influence of voting and corruption of voters through the provision of incentives and misuse of state resources by the incumbent [Socialist] party has also been the distribution of legalization certificates during the pre-electoral campaign to citizens who had previously built informal/illegal dwellings in Albania. A practice that openly contradicted the legal framework in force, which predicts inter alia “that in the four months prior to election day, the prohibited activities include the distribution of permits validating illegal construction, registration of property titles, use in the election campaign of state resources” (OSCE/ODIHR 2021: 15). This did not prevent officials of the incumbent Socialist Party who governed the agency in charge from distributing over 6,300 legalization permits three months prior to the elections of 25 April 2021<sup>10</sup>, from increasing the number of voters and ensuring an electoral advantage by diverting targeted “public” goods to specific constituencies for party gain<sup>11</sup>.

The strategy of state capture by incumbents in Albania to ensure their grip on power and hyper-incumbency advantages over the opposition challengers by violating the democratic norms of the elections is also characterized by informal relationships with companies and business groups, or even those of organized crime, which ensure favourable public contracts, often to the detriment of the public interest, but that in turn significantly finance [informally and illegally] the political campaigns of the ruling party. Thus, a large number of

<sup>9</sup> For a more accurate distribution of government funds allocated for post-earthquake reconstruction for the affected citizens on Pre-election and during the electoral period in Albania, see in Open Data Albania (2021), “*The Election Campaign Period and the Restructuring Fund, Additional Budget allocated to 11 Municipalities as Unconditional Transfers*”. Available at WWW: <<https://ndiqparate.al/?p=11819&lang=en>>.

<sup>10</sup> See in Euronews Albania (2021), “*A ndikuan legalizimet në zgjedhje? Në tre muajt e parë të 2021 u shpërndanë mbi 6 mijë leje*”. Available at WWW: <<https://euronews.al/al/vendi/aktualitet/2021/05/11/a-ndikuan-legalizimet-ne-zgjedhje-ne-tre-muajt-e-pare-te-2021-u-shperndane-mbi-10-mije-leje/>>.

<sup>11</sup> For a more detailed investigation of how the legalization permits are used by the ruling party in Albania in the form of clientelist exchange of votes, see in Enton Palushi (2018), “*Drama e ‘Astirit’ është se legalizimet janë përdorur për blerje votash*”. Available at WWW: <<https://www.mapo.al/drama-e-astirit-eshte-se-legalizimet-jane-perdorur-per-blerje-votash/>>.

cases publicly denounced/reported in Albania of *tailor-made laws* or *laws created to satisfy particular needs, awarding tenders and public contracts* to companies without previous experience in providing the required service, or acceptance by the government of *unsolicited proposals* for granting various concessions<sup>12</sup> are just some of the ways of state capture driven mainly by political parties in power and their patronage and clientelistic networks that sustain them, and which provides them with greater access to money used for election campaigns. This connection of mutual interests, which manifests itself in the form of state capture by the ruling party and companies that obtain public contracts/tenders, creates an undue advantage, and violates the democratic norm of *unfairness* regarding the conduct of free and fair elections. This is because it enables the ruling party to have much greater access to money (thus, skewing the playing field between competing parties in the electoral contest) to be used in the campaign to secure votes, even in the form of *vote-buying*, which has been evidenced as a widespread phenomenon during the 25 April 2021 election campaign by the media, in the OSCE/ODIHR final report, as well as by civil society organizations engaged in monitoring the elections<sup>13</sup>.

The other strategy that incumbent political parties in Albania have regularly used to provide an unfair advantage (in electoral contests) over the opposition parties – to secure votes and to consolidate their position in power – has to do with the endemic party patronage. Party patronage as an element of state capture by political parties in Albania has been a characteristic feature since the onset of its democratization. As Arolda Elbasani points out in this regard, from the very start of regime change, Albanian political parties have treated the state as a piece of property to be distributed among respective militants and loyalists, and the idea of separating the state (public) administration from the ruling party was completely foreign to the Albanian authorities (2009: 11-12). However, this strategy has become increasingly more sophisticated, and nowadays the parties have also developed various mechanisms (by violating the democratic norms) to control “*effectively*” the votes of the public sector employees [who are presumed to be their loyalists], of their family members, or even of those who receive any form of social assistance from the state institutions. This fact is documented in the election monitoring report of 25 April 2021 by civil society organizations in Albania, where it is stressed: “public administration employees at the local level have submitted allegations to KRIIK observers in which they claim to have been subject of pressure to engage in the campaign, in the form of active participation or to secure electors for the ruling political force. Such allegations also include blackmail or intimidation for dismissal or non-benefit of social services” (KRIIK Albania 2021: 27). The dominance and control that the Socialist Party had over public sector employees in both central and local public administration have been almost absolute, bearing in mind the fact that in the local elections held on 30 June 2019 in Albania [which the main opposition parties boycotted], the party won in 60 out of 61 Municipalities. As if this total control over the employees in the central and local public administration (about 170,000 employed

<sup>12</sup> For a more detailed list of these tailor-made laws or laws created to satisfy particular needs in Albania, see the Reports of Transparency International (2020), “*Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey*”, pp. 16-20; Transparency International & Institute for Democracy and Mediation (2021), “*Deconstructing State Capture in Albania: An Examination of Grand Corruption Cases and Tailor-Made Laws from 2008 to 2020*”, pp. 38-41.

<sup>13</sup> See in OSCE/ODIHR (2021), “*Final Report – Albania, Parliamentary Elections 25 April 2021*”, p. 2, 15; KRIIK Albania (Coalition for Reforms, Integration and Consolidated Institutions) (2021), “*Elections for The Assembly of Albania*”, p. 23.

individuals in 2020) were not enough, the ruling Socialist Party's reliance on patronage as the system of proffering of public resources (incentives typically as public employments) by officeholders in return for electoral support, increased significantly in terms of employment in the public sector during the last six months before the 25 April 2021 election, with about 12,500 employees added<sup>14</sup>. The total number of employees in the public administration in Albania reached its historical peak, since the regime change in 1991, of about 182,500 individuals<sup>15</sup>, although 2021 was a pandemic year that saw the state budget shrinking due to declining revenues. Even in this case, the central and local administrative apparatus of the state served as a tool for political incumbents to consolidate their power and to gain an unfair advantage over the opposition parties in elections by collecting votes through electoral machinery, but also as an "effective" mechanism for controlling the "commitment problem"<sup>16</sup> or the "uncertain" votes of the Albanian electorate.

The democratic premises of elections where citizens have the right to choose freely and insulated from any form of intimidation, and where the political parties compete on equal and fair terms, were also violated in the 25 April 2021 election in Albania through the discovery of what has become known as the "patronage system" database, possessed by the ruling Socialist Party officials [and distributed throughout its various local branches] in an "attempt" to solve the "commitment problem". As Magaloni has stressed in relation to this, the effectiveness of the "punishment regime" developed by the incumbent parties in deterring voter defection largely depends on its ability, first, to screen between supporters and opponents and second, to target benefits only to those who will vote for the party (2006: 66). This database possessed by the officials of the Socialist Party in power had information about the personal data of about 900,000 Albanian citizens and their potential political preferences and where was presumed to be supervised by a party "patronageists". The problem with this database of Albanian citizens, the discovery of which produced a scandal during the electoral campaign, is that it did not contain data on voters/supporters of a party [Socialist Party in this case] voluntarily submitted by citizens in the local branch of that party as a member or its sympathizer, but the misuse of personal data of citizens (their contact information, workplace, and other confidential data) obtained from the servers of state institutions and made available to "patronageists" – active members (probably also employed in state institutions) in the Socialist Party local branches, who were in charge

<sup>14</sup> These are the official numbers given by INSTAT for the employment in the public sector for the period of third and fourth quarters of 2020, and which are reflected in the OSCE/ODIHR report on the 25 April 2021 elections in Albania. The report also mentions the fact that just one day before the legal moratorium on the authorization of new employment on 25 December 2020 came into force, the Albanian government (led by the Socialist Party) on 24 December 2020 authorized exclusively an additional of 2,472 positions in the public sector. OSCE/ODIHR (2021), *Republic of Albania: Parliamentary Elections 25 April 2021 - Final Report*, p. 16.

<sup>15</sup> To better understand the size of public administration employees (both at the central and local level) in Albania [182,500 individuals], it is enough to mention that this figure represents ¼ of the total active population employed in Albania. If we could make a comparison in the case of PRI's patronage in Mexico with the data provided by Kenneth F. Greene (2007a: 103), "at its height in the 1980s, the federal government (employees) of PRI accounted for 10.6% of total economically active population of Mexico", while this ratio of public-private employees in Albania in 2021 was 25%. See in Euronews Albania (2021), *Rekord punësimesh në shtet, administrata zgjerohet me 12 mijë vende të reja brenda 1 viti*. Available at WWW: <<https://euronews.al/vendi/aktualitet/2021/09/15/rekord-punesimesh-ne-shtet-administrata-zgjerohet-me-12-mije-vende-te-reja-brenda-1-viti/>>.

<sup>16</sup> Beatrix Magaloni (2006: 67) refers to the "commitment problem" of the electorate as the possibility when the voters may receive a clientelistic benefit or a particularistic transfer but fail to deliver their support.

of monitoring the political preferences of citizens. The way this patronage system works in practice is as follows: to each patronageist is given a list with confidential data on the individuals they need to track, to understand who they are voting for and if they are “ours” or not, if they are swing voters, or if they should call them and meet them to persuade them [probably even through forms of intimidation] to vote for the Socialist Party in power<sup>17</sup> (Lapsi.al, 2021). Thus, through this patronage system, the party in power ensures the implementation of what is the most problematic part in the clientelistic exchanges - its “commitment problem” or its control mechanism - *did you—will you—vote for me?*”. Such a violation of the democratic rights and premises of citizens to choose freely, secretly, and insulated from any form of intimidation, is mentioned as one of the main problematics in the OSCE/ODIHR final report on the elections in Albania: “Unauthorized sharing or combining of voters’ personal data for the supposed purposes of democratic engagement may be considered a violation of the commitment to protection of the right to private and family life. It may damage the confidence of the electorate, including in the secrecy of their vote” (2021: 16-17). In practice, this system of political patronage over the Albanian citizens violates the democratic norms and premises on the conduct of free and fair elections relating to the *practical suffrage restriction* [e.g., by collecting ID Cards of citizens or preventing the undecided part of the electorate from going to the polls] and *intimidation of voters* (through threats of public job dismissal, cessation of social assistance, non-issuance of legalization certificates, etc.).

## V. Conclusion

This paper aimed to analyse and highlight the negative implications and consequences that state capture and party patronage strategies by the political incumbents have on the conduct of free and fair elections. The main argument of this paper is that in those countries where state structures or informal mechanisms in which party patronage, clientelism, corruption, or the pursuit of particularistic political interests by those who rule them prevail, the implementation of rules of the democratic game in the conduct of elections is inherently compromised. In settings where the state structures lack the autonomy to resist the encroachment of incumbent parties/elites to use the state for “private” purposes, the democratic normative premises of the conduct of elections are all directly threatened. Institutional and structural context of the state (the historical legacy of state-building process, the relative timing of bureaucratization and democratization, the hindrance of legal formalization of mutual constraints by political parties) along with the opportunity to generate

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<sup>17</sup> The main element of the publication of “patronage system” database scandal in Albania during the period of the electoral campaign, for which the prosecution office started an investigation, was the source of this data (present in this database), which were presumed to be confidential and protected by the state. The Socialist Party was accused of having received the source of these data precisely from E-Albania (managed by National Agency for Information Society in Albania), and the testimonies of the citizens who appeared in these lists ensured that these data could have come out only from the digital platform of this state institution. According to the web portal Lapsi.al, the patronageists, who were aware of the sensitive personal data of the citizens, used these data to intimidate them by directing their vote to the Socialist Party, or threatened them not to go to the election polls if the vote was not for the party in power. See in Lapsi.al (2021), “Zbërthehet burimi i Lapsi.al/ Si e përdorin Drejtuesit Politikë të PS programin me të dhënat për 3.5 milion shqiptarë”. Available at WWW: <<https://lapsi.al/2021/04/18/zberthehet-burimi-i-lapsi-al-si-e-perdorin-drejtuesit-politike-te-ps-programin-me-te-dhenat-per-3-5-milion-shqiptare/>>.

economic resources for partisan purposes from its institutions, matters a great deal in the development of electoral contests between political parties. In this sense, the easier it is for the incumbents' parties in such contexts to politically control the public administration and the infrastructural capacity of the state (by capturing state institutions and making them function on political lines) in their countries, as well as to appropriate the state resources for their particularistic partisan purposes, the more they will tend to use them in favour of their unfair strategies during the elections. Relying on and the increasingly sophisticated use of informal mechanisms and practices through *state capture* and *endemic party patronage* [as electoral containment strategies] by the ruling political party has considerably affected the creation of a biased playing field and the production of hyper-incumbency advantages in the electoral contests between political parties, thus also making the possibility of political power rotations extremely difficult. As the case study of this paper of the parliamentary elections held on 25 April 2021 in Albania demonstrates, these (electoral containment) strategies pursued by the ruling party directly violated some of the norms of the democratic effective choice by the citizens, as well as affected the unfairness and the unequal competition between the political parties in the electoral contest. The study of these electoral containment strategies, as well as the informal mechanisms and practices through which they are implemented by the incumbent political parties to ensure their grip in power, is crucial in understanding the dynamics of the different trajectories that the elections have taken nowadays in many of the post-communist countries, especially in those of the Western Balkans.

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