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Introduction of New Civil Rules in BIM Contract in Albania: An Italian Model?

L'introduzione di nuove norme civilistiche per i contratti BIM in Albania: un modello italiano?

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Abstract*

Building Information Modelling (BIM) has significantly reshaped contractual practices in the construction sector, giving rise to new legal challenges in the contractual governance. Directive 2014/24/EU has promoted the use of BIM tools in public procurement, while Italy has progressively introduced mandatory BIM requirements, further strengthened in 2024. By contrast, the Albanian legal system still lacks explicit provisions governing BIM-based contracts. This paper examines the inadequacy of traditional rules of the Albanian Civil Code when applied to BIM contracts, highlighting the relevance of the Italian regulatory experience as a comparative model, concluding by offering aimed at supporting Albanian lawmakers in the development of a coherent civil-law framework for BIM.

Il Building Information Modelling (BIM) ha profondamente trasformato le prassi contrattuali nel settore delle costruzioni, dando origine a nuove sfide giuridiche nella governance contrattuale. La direttiva 2014/24/UE ha promosso l'uso degli strumenti BIM negli appalti pubblici, mentre l'Italia ha progressivamente introdotto requisiti BIM obbligatori, ulteriormente rafforzati nel 2024. Al contrario, l'ordinamento giuridico albanese è ancora privo di disposizioni esplicite che disciplinino i contratti basati sul BIM. Il presente documento esamina l'inadeguatezza delle norme tradizionali del Codice Civile albanese quando applicate ai contratti BIM, evidenziando la rilevanza dell'esperienza normativa italiana come modello comparativo, e conclude offrendo suggerimenti volti a supportare i legislatori albanesi nello sviluppo di un quadro di diritto civile coerente per il BIM.

Keywords: Albanian private law, BIM, EU integration, Italy, relational approach to the contract.

Summary: 1. Introduction. – 2. From BIM to Collaborative Agreements in Private Law: Focusing on the Italian Case. – 3. BIM Contracts in Albania: Challenges and a Possible Solution. – 3.1. BIM Contracts in Albania: Challenges. – 3.1.a. The Role of the BIM new professionals. – 3.1.b. The Role of the interpretation of contracts. – 3.2. BIM Contracts in Albania: A Possible Solution. – 4. Conclusion.

1. Introduction.*a

In Albania, construction is one of the main sectors for the national economy.[1] However, in the recent years, construction industry is changing its practice.[2] This paper focuses on the case of Building Information Modelling (BIM). Indeed,

* The author of the abstract is J. Bashmili

*a The author of this paragraph is R. Picaro

[1] INSTAT – Albanian Institute of Statistics, *Gross Domestic Product: Final 2023 and Semi-final 2024*, Press Release, 15 January 2024 https://www.instat.gov.al/media/djup42zl/press-release_pbb-final-2023-dhe-gjysmë-final-2024_vjetore.pdf

[2] NO Nawari, 'BIM Standard in Off-Site Construction' (2012) 18(2) *Journal of Architectural Engineering* 107–113.

also the Albanian doctrine in engineering and architecture have shown that BIM is used in Albanian construction sector.[3]

Without delving into the technical details of what constitutes BIM, it can be understood as a digital representation—typically in 3D—of a building that incorporates detailed information.[4] BIM enables the creation of digital models not only during the pre-construction and construction phases, but also throughout the building's operational life and until its eventual demolition. These models contain semantic information, including materials, technical properties, costs, and the relationships between components as well as other physical or logical entities.[5] It should be emphasized that BIM is primarily a working method in the construction industry.[6] For clarity, legal scholarship usually identifies two main BIM approaches. In the federated model, each discipline works on its own model, which is later coordinated with the others. In the integrated model, all participants operate within a single shared model at the same time.[7]

While BIM does not recognize national borders, legal rules are available only within a country. Although BIM is a new construction method, the Albanian lawmaker has not established clear rules regarding BIM. On the contrary, the Italian lawmaker has identified clear rules on legal BIM; in 2017 through a secondary legislation, Ministerial Decree (MD) no. 560 of 1st December 2017, while in 2023, with a primary legislation.[8]

This paper considers Albania and Italy as case models. In November 2025, Albania opened all the negotiations chapters.[9] Indeed, Article 22(4) of Directive 2014/24/EU stimulates EU Member States to introduce legal BIM. The importance of EU harmonization has been established also by the Albanian Law No. 162/2020 of 23 December 2020 *On Public Procurement*, which has modified the previous law on public procurement. Indeed, its first footnotes states that the law is *partially approximated* with Directive 2014/24/EU, as well as with Directive 2014/25/EU.

The Italian case has been considered since it is a typical example where the EU law has not only been fulfilled, but where it has gone beyond it. While the EU Parliament has stimulated the application of BIM, the Italian Parliament has established BIM as a mandatory requirement for all public procurements over 1 million euro (Article 43 Code of Public Contracts of April 2023), which was modified by Legislative Decree no. 209 of 31 Decembre 2024 to 2 million euro.

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[3] V Prifti, 'Project Management and Implementation of BIM in a Project in Albania' (2024) 9(2) *European Journal of Multidisciplinary Studies* 93–101.
[4] M Sakin and YC Kiroglu, '3D Printing of Buildings: Construction of the Sustainable Houses of the Future by BIM' (2017) 134 *Energy Procedia* 702–711.
[5] S Ahmed, 'Barriers to Implementation of Building Information Modeling (BIM) to the Construction Industry: A Review' (2018) 7(2) *Journal of Civil Engineering and Construction* 107–113.
[6] A Besné and others, 'A Systematic Review of Current Strategies and Methods for BIM Implementation in the Academic Field' (2021) 11(12) *Applied Sciences* 5530.
[7] D Veshi, C Venditti and R Picaro, 'Building Information Modelling in Italy: An Interdisciplinary Approach' (2023) 3 *Rivista Giuridica di Urbanistica* 541–565.
[8] Ibid.
[9] Council of the European Union, *EU Opens Last Accession Negotiating Cluster with Albania on Resources, Agriculture and Cohesion*, Press Release, 17 November 2025 https://www.consilium.europa.eu/en/press/press-releases/2025/11/17/eu-opens-last-accession-negotiating-cluster-with-albania-on-resources-agriculture-and-cohesion/

This paper applies a comparative approach. In concrete, through comparison, only effective rules will remain.[10] In addition, in the case of private law, the Italo-Albanian doctrine has shown that the Albanian Civil Code of 1994, especially the property part, has been influenced by the Italian doctrine.[11] Furthermore, in the context of harmonizing succession law with EU law—specifically, Commission Recommendation 94/1069/EC of 7 December 1994 and Regulation (EU) No 650/2012 of 4 July 2012—the Italian-Albanian legal scholarship has recommended the Italian model.[12] Moreover, the Albanian doctrine has shown the impact of the EU law in different fields of private law, such as consumer law,[13] medical civil liability,[14] time-sharing contract[15] as well as succession law.[16]

The research question of this paper is therefore the following: given that BIM is also being adopted in Albania, and considering the similarities between the Italian and Albanian private legal systems, can the recent Italian private rules established in Legislative Decree No. 209 of 31 December 2024 serve as a model for Albanian lawmakers in regulating civil relations under BIM contracts? To address this question, it is necessary to briefly introduce readers to the recent Italian reform under Legislative Decree No. 209 of 31 December 2024, as well as to examine the challenges posed by the traditional, strict interpretation of civil law rules in the context of BIM contracts, particularly in the case of the integrated model.

While the Albanian civil engineers have underlined lack of information and clear guidelines for the use of BIM in companies in Albania,[17] there is no literature on the civil relations within BIM contract. On the contrary, there are several scientific papers dealing with it focusing on the Italian legal system.[18]

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[10] A Estache, *Decentralizing Infrastructure: Advantages and Limitations* (The World Bank 1995) 99.

[11] C Venditti, D Veshi and E Koka, 'The Transformation of Right to Property in the Post-Communist Period in Albania: The Impact of the Italian Civil Code in the Ways of Acquisition of Ownership in the Albanian Civil Code of 1994' (2020) 9(1) *Osservatorio del diritto civile e commerciale* 329–352; C Venditti, R Picaro and D Veshi, *Introduction of Albanian Property Law – Similarities and Differences Between the Albanian and Italian Legal Systems* (Edizioni Scientifiche Italiane – ESI 2021).

[12] E Koka and others, 'Implementation of the Commission Recommendation of 7 December 1994 on the Transfer of Small- and Medium-Sized Enterprises in Albania: A German or Italian Model?' (2024) 32(5) *European Review of Private Law* (forthcoming); F Cekaj and others, 'Succession Contracts for Family Firms in Italy and Albania: A European Private International Law Approach' (2022) 11(2) *Osservatorio del diritto civile e commerciale* 621–638; D Veshi and others, 'Albanian (International) Succession Law and the EU Legislation' (2024) 32(1) *European Review of Private Law*.

[13] D Veshi, 'Albania's Judicial Approach to Consumer Protection and the Influence of EU Law' (2025) 1 *Studi sull'Integrazione Europea* 125–140.

[14] E Koka, D Veshi and A Morina, 'EU Impact on Albanian Medical Civil Liability: A Case Law Approach' (2025) 2 *Freedom, Security & Justice: European Legal Studies* 146–161.

[15] D Veshi, 'Time-Sharing of Immovable Property Between EU and Albanian Law: Jurisdiction, Applicable Law, and Consumer Protection in Case-Law' (2025) 14(3) *European Property Law Journal* 239–262; D Veshi, 'The European Union's Impact on the Albanian Time-Share Contracts on Immovable Properties' (2025) 17(1) *Journal of Civil Law Studies* 15.

[16] E Koka and others, 'Implementation of the Commission Recommendation of 7 December 1994 on the Transfer of Small- and Medium-Sized Enterprises in Albania: A German or Italian Model?' (2024) 32(5) *European Review of Private Law* (forthcoming); F Cekaj and others, 'Succession Contracts for Family Firms in Italy and Albania: A European Private International Law Approach' (2022) 11(2) *Osservatorio del diritto civile e commerciale* 621–638; D Veshi and others, 'Albanian (International) Succession Law and the EU Legislation' (2024) 32(1) *European Review of Private Law*.

[17] V Prifti, 'Project Management and Implementation of BIM in a Project in Albania' (2024) 9(2) *European Journal of Multidisciplinary Studies* 93–101.

[18] D Veshi, R Picaro and D Veshi, 'Building Information Modeling in Italy: An Interdisciplinary Approach' (2023) 3 *Rivista Giuridica di Urbanistica* 539–565; D Veshi and others, 'Administrative Judicial Approach to

This paper is structured as follows: Section II introduces readers to the concept of legal BIM in Italy, with a particular focus on Legislative Decree No. 209 of 31 December 2024, which introduced the *Accordo Collaborativo* (collaborative agreement) to govern civil relations within BIM contracts. Section III examines instances in which the traditional provisions of the Albanian Civil Code may encounter difficulties in effectively addressing civil relations arising from BIM. The concluding section highlights the importance of introducing the alliance contract into the Albanian legal framework for BIM contracts, following the model established in Italy.

2. From BIM to Collaborative Agreements in Private Law: Focusing on the Italian Case.[*b]

The application of new technologies in public procurement is a field that involves not only administrative law, but also significant civil law implications.

After demonstrating the interconnection between administrative and civil law issues in public procurement within the Italian and Albanian legal systems, this section examines legal BIM from a civil law perspective in the Italian legal system. Particular attention is devoted to the Italian and Albanian legal frameworks. In Italy, prior to Legislative Decree No. 209 of 31 December 2024, the legal system did not expressly provide for a collaborative agreement.

Public procurement is characterized by an inherent combination of administrative and civil law rules. Under Italian law, once the contracting authority has selected the winning tenderer, the stipulation of the contract and the execution phase are governed primarily by civil law rules (Article 12(1)(b) of the Code of Public Contracts). Civil law principles also apply to the partial or total suspension of contract execution (Article 121(10)), termination of the contract for non-performance (Article 190(2)), liens on receivables (Article 199), and dispute settlement mechanisms (Article 212). Furthermore, the definition of parent and subsidiary companies is based on the Civil Code (Article 58 of the Code of Public Contracts), while arbitration rules are largely governed by the Code of Civil Procedure (Article 213). Consequently, where BIM is employed within public contracts involving public authorities, a strong interconnection between public and private law inevitably emerges.

With specific regard to civil law issues in BIM contracts, legal scholarship has examined the matter primarily through theoretical analysis and limited case-law review. From a judicial perspective, doctrine has identified only a small number of cases addressing civil law issues related to BIM,[19] mainly originating

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Legal BIM in Italy: Application of an Interdisciplinary Approach?' (2025) 25(2) *Croatian and Comparative Public Administration* 239–264; E Koka and others, 'Legal BIM in Italy: An Administrative Case-Law Approach' (2025) 9(1) *Bratislava Law Review* 113–134; D Veshi, C Venditti, R Picaro and J Bashmili, 'Challenges in Legal BIM and Civil Law in Italy: An Innovative Approach to Contracts' (2024) 1 *Rivista Giuridica dell'Edilizia* 43–56; D Veshi, 'Legal BIM e diritto civile: i giuristi sanno come utilizzarlo?' in R Picaro and C Pernice (eds), *Legal BIM e Transizione Digitale nel Codice dei Contratti Pubblici: Un Approccio Interdisciplinare* (*Quaderni di Tecnologie e Diritto* vol 2, 2024) 65–83.

[*b] The author of this paragraph is C. Venditti

[19] D Veshi, 'Legal Aspects of BIM and Civil Law Across Different Jurisdictions' (2026) 18(1) *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 04525083; D Veshi, 'Legal BIM e diritto civile: i

from the United States,[20] Spain, [21] or Germany.[22] In these disputes, courts have consistently relied on traditional civil law principles, without developing BIM-specific doctrinal or interpretative frameworks.[23]

Considering the criticisms raised concerning the handling of future civil disputes arising from BIM-based contracts, legal scholarship has increasingly advocated for a different contractual approach to BIM.[24] In particular, doctrine has emphasized the need for collaborative contractual models capable of reallocating risks, enhancing cooperation among parties, and preventing litigation at an early stage. Eventually, it might be within this doctrinal and practical context that the Italian legislature's recent introduction of collaborative agreements assumes particular relevance, offering a potential model for future regulatory developments also in the Albanian legal system.

In concrete, the Italian Legislative Decree No. 209 of 31 December 2024 introduced the *Accordo Collaborativo* (Article 82-bis and Annex II.6-bis of the Italian Code of Public Contracts), thereby formally recognizing collaborative contractual models within public procurement. This legislative reform is also inspired by the recommendations of the EU BIM Task Group,[25] which strongly encourages the incorporation of BIM-related obligations, responsibilities, and limitations directly into contractual arrangements, for instance through a specific BIM protocol or annex.

Among the various amendments introduced in December 2024, two legislative provisions deserve particular attention due to their close interconnection in BIM contracts that underline the importance of collaborative approach. The first concerns exemption clauses. In cases where one or more stages of the design process are outsourced, any agreement excluding or limiting the designer's liability for errors or omissions that wholly or partially compromise the construction of the work or its future use is deemed null and void (Article 41(8-bis) of the Code of Public Contracts).

On the basis of the principle *lex specialis derogat legi generali*, Article 41(8-bis) prevails over Article 1229(1) of the Italian Civil Code within the sphere of public contracts. While the Civil Code prohibits clauses excluding liability only in cases of intent or gross negligence, the Code of Public Contracts—where design activities are outsourced—prohibits any form of exemption from liability. Moreover, the Italian Court of Cassation has affirmed the joint and

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giuristi sanno come utilizzarlo?' in R Picaro and C Pernice (eds), *Legal BIM e Transizione Digitale nel Codice dei Contratti Pubblici: Un Approccio Interdisciplinare* (*Quaderni di Tecnologie e Diritto* vol 2, 2024) 65–83.

[20] Design Partners, Inc v Five Star Elec Corp 2016 US Dist LEXIS 83072 (US District Court 2016).

[21] Tribunal Provincial of the Balearic Islands, Section 3, Judgment No 199/2018, 8 May 2018, Case No 152/2018, confirming Court of First Instance of Palma No 13, Judgment of 2 November 2017.

[22] Regional Court (LG) Paderborn, Judgment of 6 July 2017, Case No 3 O 418/16.

[23] D Veshi, 'Legal Aspects of BIM and Civil Law Across Different Jurisdictions' (2026) 18(1) *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 04525083.

[24] D Veshi, 'Legal Aspects of BIM and Civil Law Across Different Jurisdictions' (2026) 18(1) *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 04525083; D Veshi, C Venditti, R Picaro and J Bashmili, 'Challenges in Legal BIM and Civil Law in Italy: An Innovative Approach to Contracts' (2024) 1 *Rivista Giuridica dell'Edilizia* 43–56.

[25] EU BIM Task Group, *Handbook for the Introduction of Building Information Modelling by the European Public Sector* (2017) https://www.eubim.eu/wp-content/uploads/2017/07/EUBIM_Handbook_Web_Optimized-1.pdf accessed 22 January 2026; EU BIM Task Group, *Handbook for the Introduction of Building Information Modelling by the European Public Sector* (n.d.) https://eubim.eu/handbook/ accessed 22 January 2026.

several liability of the designer, the works supervisor, and the contractor.[26] As a result, parties to a public contract are required to cooperate closely in order to mitigate the risk of being held jointly liable.

Consistently with this approach, Article 82-bis and Annex II.6-bis regulate the collaborative agreement, a contractual model closely resembling the *alliance contract* developed in common law jurisdictions. In practice, particularly in the BIM context, alliance-based arrangements represent the typical contractual form.[27] Within such alliances, the parties share risks, responsibilities for performance, and project outcomes.

According to Annex II.6-bis, the collaborative agreement is a multilateral contract involving the parties significantly engaged in the execution phase—namely, the contracting authority and the contractor—and potentially also subcontractors, sub-suppliers, and suppliers, provided that their role is relevant and subject to the consent of both the contracting authority and the contractor. Other actors, such as institutional investors and public authorities participating in the conference of services, may also join the agreement, subject to the approval of the contracting authority, possibly following a reasoned request by the contractor.

The guiding principles of the collaborative agreement are good faith and fairness in the pursuit of its objectives. Its content includes performance-based incentives, execution responsibilities, grounds and procedures for termination, and mechanisms for monitoring compliance. Of particular relevance is the establishment of an early-warning system, designed to prevent potential risks that could jeopardize proper performance and to ensure timely remedial action, in line with the "principle of result" (Article 3(6), Annex II.6-bis, Code of Public Contracts).

Further attention should be paid to Article 4 of Annex II.6-bis, which emphasizes the importance of alternative dispute resolution mechanisms. It should be recalled, however, that the Italian Constitutional Court has declared the mandatory nature of alternative dispute resolution unconstitutional.[28] Consequently, in the Italian legal system, alternative dispute resolution currently remains optional and non-binding.

3. BIM Contracts in Albania: Challenges and a Possible Solution.[*c]

Public procurement contracts implicate not only administrative law but also significant civil law considerations.

For example, Article 124 of the Albanian Code of Administrative Procedure expressly provides that, for matters not explicitly regulated by the Code with respect to administrative contracts, the relevant provisions of the Albanian Civil Code or other specific legislative acts shall apply. This provision underscores the subsidiary role of civil law in regulating public procurement

[26] Italian Court of Cassation, Civil Section II, Judgment No 14650, 27 August 2012.
[27] D Veshi, C Venditti and R Picaro, 'Building Information Modeling in Italy: An Interdisciplinary Approach' (2023) 3 *Rivista Giuridica di Urbanistica* 539–565.
[28] Italian Constitutional Court, Judgment No 272, 6 December 2012.

[*c] The author of this paragraph is J. Bashmili

relationships. Moreover, in the context of public procurement, Article 122(3) of Albanian Law No. 162/2020 of 23 December 2020 on Public Procurement states that, *Without prejudice to the provisions of this law and any other applicable rules of the contracting authority or entity, procurement contracts shall be governed by the provisions of the Civil Code* [authors' translation]. This confirms that civil law serves as a foundational framework for public procurement contracts in Albania.

Although Albania has not introduced legal BIM, BIM is also adapted in Albania.[29] The goal of it Section is to argue that if the application of traditional civil law notions might face some difficulties. This challenge is increased in the case of integrated BIM, where it is not possible to have a clear division of the work done by each party.

3.1 BIM Contracts in Albania: Challenges.*[d]

The traditional approach to civil rules, or better the strict literal interpretation of contracts, could be applied, also in the case of BIM contract, under certain conditions. While the first part of this sub-Section studies the role of new professionals and the separation of rules, the second part analysis the contract design and its interpretation.

3.1.a. The Role of the BIM new professionals.*[e]

This part examines the role of the new BIM professionals—such as the BIM Coordinator, BIM Manager, and BIM Modeler—and the separation of their responsibilities.

Under the traditional rules of the Albanian Civil Code, these BIM professionals would continue to bear the majority of liability. By contrast, in Italy, the legislator has introduced a 10% increase to be applied to the total calculation of professional fees before including expenses and ancillary charges, a mechanism that has not yet been adopted in Albania.

Furthermore, Albania currently lacks a professional registry for these new BIM roles. In practice, only architects and engineers are formally recognized as national professionals, and registration is required in order to practice in Albania (Articles 5(1)(ë) and (f) and 6(2) of Law No. 10 171 of 22 October 2009 *On Regulated Professions in the Republic of Albania*). Registered professionals

[29] N Cane and T Kodra, 'The Adaption of BIM in the Albanian Construction Industry' (2022) *Fourth International Conference on Architecture and Urban Design* 60–69; I Mehmetaj, A Kalliri and M Ndini, 'Usage of Building Information Modeling (BIM) and Point Cloud for Post-Earthquake Damage Assessment: A Case Study from Albania' *Book of Proceedings*; V Prifti, 'Project Management and Implementation of BIM in a Project in Albania' (2024) 9(2) *European Journal of Multidisciplinary Studies* 93–101; N Vesho, M Guri and A Sava, 'The Use of Numerical Models Within the BIM Environment, for the Issue of Cultural Heritage Restoration: Buildings Designed Until 1940 in Albania' (2024) 4(1) *Architecture, Structures and Construction* 37–53; N Vesho, 'A Methodology on the Treatment of the Issue of Cultural Heritage Restoration in Tirana, Period 1920–'40: BIM Modeling, Seismic Simulation and Theoretical Interpretations' (2022).

*[d] The author of this paragraph is J. Bashmili

*[e] The author of this paragraph is A. Gjeta

are also required to obtain professional liability insurance (Article 31(2)(g), Law No. 10 171/2009). However, although a general law governs registered professions, at present, there are only draft bills addressing the professional orders for engineers[30] and architects,[31] while BIM professionals do not have a clear regulatory framework.

Second, all parties shall be sure that although there is a BIM, a traditional separation role is kept. In Italy, this approach was underlined also by the Article 3.3 of the ANAC's guidelines of 2018. From a civil law perspective, prior to the introduction of Legislative Decree No. 209 of 31 December 2024, Articles 1176(2), 1669, 1670, 2226, and 2236 of the Italian Civil Code, among others, were applicable.[32]

In this case, the general rules of the Albanian civil code will be applied. These rules are similar or identical to the Italian Civil Code. In concrete, Article 455 Civil Code, similar to Article 1176 Italian Civil Code, states that *the debtor shall exercise due care and act with precision in the performance of the obligation, in accordance with its content* [authors' translation].

Second, Article 866 Albanian Civil Code is identical with Article 1669 Italian Civil Code. Thus, a contractor is liable for ten years for long-lasting structures or immovable works that collapse or have serious defects, provided the client or rights holders notify them within one year of discovery, with the client's claim expiring one year after notification. As in the case of Italy,[33] there are three important terms: ordinary prescription of 10 years from the moment finishing; decadence of 1 year for its notice to the contractor by the ordinary party; and prescription of 1 year from the notice to start a lawsuit against the contractor.

Third, although Article 857 of the Albanian Civil Code—identical to Article 1656 of the Italian Civil Code—generally prohibits subcontracting, if subcontracting occurs, the contractor must notify the subcontractors of any claim within sixty days of becoming aware, under a forfeiture rule, failing which the right of recourse is lost (Article 867 Albanian Civil Code, identical to Article 1670 Italian Civil Code). In this case as well, a sixty-day forfeiture period applies.

Articles 2226 and 2236 of the Italian Civil Code do not have any explicit reference to the Albanian Civil Code. However, Article 864 of the Albanian Civil Code pursues a similar objective. Specifically, it provides that a guarantee is not required where the client has accepted the work and the defects or flaws were known to them or were readily apparent, except in cases where they were deliberately concealed by the contractor. However, the timeline of prescription or decadence are different. First, while the decadence of notice is 60 days in Albania (Article 864(2) Albanian Civil Code), in Italy, this is only 8 days (Article 2226(2) Italian Civil Code). Second, while the prescription to start a lawsuit is 2 years in Albania (Article 864(3) Albanian Civil Code), in Italy, this is only 1 year (Article 2226(2) Italian Civil Code).

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[30] Ministry of Infrastructure and Energy of Albania, *Public Consultation Document* https://www.infrastruktura.gov.al/single-konsultimi/?id=441

[31] overnment of Albania, *Public Consultation on Draft Legal Acts* https://www.konsultimipublik.gov.al/Konsultime/Detaje/443

[32] D Veshi, C Venditti and R Picaro, 'Building Information Modeling in Italy: An Interdisciplinary Approach' (2023) 3 *Rivista Giuridica di Urbanistica* 539–565.

[33] R Balasso, *Difformità, vizi e difetti delle opere edili* (vol 291, Maggioli Editore 2016).

Although this would create a good theoretical result, in practice this is impossible for three main reasons. First, in construction industry, there was no clear separation of the role of the designers from that of the contractor.[34] Second, the main goal of BIM, especially integrated BIM, is the collaboration and trust on the work of others.[35] Third, the clear separation of jobs would require that every track change is kept. Considering that several experts work on BIM, keeping track of all track changes would be almost impossible and will create difficulties for the work of experts, especially in the last phases of implementation. Additionally, it should be underlined that according to the American jurisprudence, civil damages for the absence of the track changes will be paid only if it occurs and demonstrated that these damages are the result of the absence of the track changes.[36] Although this is a foreign legal decision, the Albanian Constitutional Court has also used other courts' jurisprudence.[37]

3.1.b. The Role of the interpretation of contracts[*f]

This section examines the role of contract interpretation in BIM agreements, offering three possible approaches to facilitate the effective application of existing civil law rules.

As a first, parties may draft a contract with multiple annexes. These annexes should include, among other elements, definitions, objectives and purposes of BIM, and the circumstances under which modifications to the agreement may be necessary. In this scenario, the relevant provisions of the Civil Code and public procurement law must be considered. For contracts between private entities, Article 860(1) of the Albanian Civil Code provides that the client may make modifications to the project, provided that their value does not exceed one-sixth of the total agreed price. Furthermore, if unforeseen circumstances lead to an increase or decrease in material or labor costs, either the contractor or the client may request a revision of the contract price.

Where the contract is considered, an administrative contract involving the State, Article 127(2) of Law No. 162/2020 of 23 December 2020 on Public Procurement—which mirrors Article 33 of Law No. 9643/2006[38]—provides that the total value of modifications to a contract or framework agreement may not exceed 20% of the initial contract or agreement value. Any work carried out in the absence of such approval is considered illegal, even if performed and

[34] R Picaro, *Il Building Information Modeling. Referente di obblighi e responsabilità* (Edizioni Scientifiche Italiane 2019).
[35] J Lou, W Lu and F Xue, 'A Review of BIM Data Exchange Method in BIM Collaboration' in *Proceedings of the International Symposium on Advancement of Construction Management and Real Estate* (Springer 2020).
[36] Merrill Iron & Steel, Inc v Blaine Construction Corp 2017 US Dist (US District Court). This case concerned civil law issues relating to compensation for increased construction costs. The applicant sought damages but failed to provide affirmative record evidence showing that the work performed was solely due to correcting the defendant's errors—specifically, the lack of documented track changes undermined the claim.
[37] E Koka and others, 'Physician-Assisted Suicide in Albania: Is It Constitutionally Protected?' (2025) 32(2) *Journal of Law & Medicine*.

[*f] The author of this paragraph is J. Aliaj
[38] Ligji nr. 9643, datë 20.11.2006, *"Për prokurimin publik"* is the previous law on public procurement before Nr. 162/2020 of 23.12.2020 Për Prokurimin Publik

utilized. This interpretation prevents the normalization of legal violations in the name of factual necessity and affirms that the public interest requires both formal and substantial compliance with procurement rules. [39] In other words, under Albanian jurisprudence, the civil principle of unjust enrichment is not applied. [40] This approach is also consistent with Article 6 of Law No. 9936/2008 on the management of the budget system.

However, this traditional approach may reduce parties' willingness to rely on standard contracts. It may also increase legal costs and potentially delay project completion. Additionally, parties must take care to expressly abrogate any prior agreements. Although the Albanian Civil Code does not contain a provision directly equivalent to Article 1367 of the Italian Civil Code, which establishes the principle of upholding of the contract, Articles 681 and 682(2) of the Albanian Civil Code—similar to Articles 1362 and 1366 of the Italian Civil Code—provide that contractual provisions that are neither explicitly modified nor abrogated in a new agreement may remain valid, based on the principles of common interest of the parties and good faith.

The two remaining traditional alternatives—the doctrine of "duty of care" [41] and the right to rely on others—are closely interconnected. The "duty of care" focuses on the careful review of one's own work before submitting it to others, whereas the right to rely on others concerns the review of work performed by other parties. The doctrine of "duty of care," as articulated in Section 2.2 of the American Institute of Architects' E202 Document, [42] requires all individuals to take reasonable steps to avoid causing foreseeable harm to others or to their property. Although this doctrine is traditionally applied in tort law, a similar effect could potentially be achieved in Albania through a combined interpretation of Article 608 of the Albanian Civil Code (analogous to Article 2043 of the Italian Civil Code) together with the general principles established by Law No. 10.171 of 22 October 2009 *On Regulated Professions in the Republic of Albania*. However, applying this approach in practice may slow project execution, as parties would need to conduct thorough reviews of their work and, in the absence of comprehensive interdisciplinary expertise, may require external consultancy services.

The second alternative—the right to rely on others—allows a recipient to rely on the model they have received, making them not liable for modifications made to the model by other parties outside their control. This approach is grounded in the principle of solidarity. Yet, it poses practical difficulties in the BIM context, where cooperation and interdependence are essential, and reliance on the work of others is a fundamental objective.

To mitigate potential risks arising from reliance on others, parties often include disclaimers in contracts that limit their liability. It should be noted,

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[39] High Court of Albania, Civil Chamber, Decision No 00-2022-983, 4 May 2022.
[40] High Court of Albania, Administrative Chamber, Decision No 00-2022-1201, 16 June 2022. By contrast, Administrative Court of First Instance of Tirana, Decision No 2990, 13 June 2016, upheld by the Administrative Court of Appeal, Decision No 5136, 20 September 2018.
[41] A Pandey, F Shahbodaghlou and J Burger, 'Legal and Contractual Challenges of Building Information Modeling—Designers' Perspectives' in *Proceedings of the Construction Research Congress 2016* (2016).
[42] American Institute of Architects, *Document E202 – Building Information Modeling Protocol Exhibit* (2008) https://it.scribd.com/document/390933747/AIAE202

however, that under Italian law such disclaimers are null and void if they seek to exclude liability arising from *dolus* or *culpa lata*, or obligations derived from public order (Article 1229 of the Italian Civil Code). In contrast, Albanian law does not permit any agreement that excludes or limits a party's liability for failure to perform obligations (Article 479 of the Albanian Civil Code).

Moreover, beyond the primary contract, BIM projects often generate multiple interconnected contracts, creating a "cloud" of contractual relationships—typical of contractual networks. When the parties to these networks differ across contracts, externalities for third parties may arise, which is a common feature of BIM projects involving collaboration among multiple stakeholders

3.2 BIM Contracts in Albania: A Possible Solution.[*g]

The alternative approach, until also the Albanian lawmaker will introduce the collaborative agreement, as it was introduced in Italy by the Legislative Decree No. 209 of 31 December 2024, is a relational approach to contract. This approach gives a more flexible interpretation of contract by including customs and usages of the construction industry. Thus, this approach will lead to an easier adaptability of the original contract to the changing circumstances by conserving the original clauses.

In other words, the relational approach generates internal rules[43] that make possible the survival of the contract to changes that were not predicted in the original agreement. In this case, in the BIM contract is fundamental that lawyers of the entities within the contract found out the common intent of the parties.

In addition, it should be underlined that BIM – as in the case of biotech companies,[44] or in the manufacturing industry[45] – is based on collaborative technologies. In their cases, based on behavior theory, contracts grow and change as the parties perform over time.[46] In the case of BIM, the strict distinction between design and construction or other parties is difficult.

Furthermore, in the typical bilateral contracts, parties aim for their best commercial interests, in *alliance*, which is generally used in the case of BIM, parties accept collective responsibility for risk, performance, and outcome by creating a sort of association aiming the same goal:[47] the construction of the construction of a public work.

[*g] The author of this paragraph is D. Veshi

[43] RE Speidel, 'The Characteristics and Challenges of Relational Contracts' (2000) 94 *Northwestern University Law Review* 823–827.

[44] LG Restaino, 'BioPharma Collaborative Agreements: Choosing the Right Deal Structure' https://ccbjournal.com/articles/biopharma-collaborative-agreements-choosing-right-deal-structure

[45] NACFAM, *The Network-Centric Innovation Imperative: How Manufacturers Work with Their Suppliers to Develop New Products* (2006) https://www.nacfam.org/studies/the-network-centric-innovation-imperative-how-manufacturers-work-with-their-suppliers-to-develop-new-products/

[46] S Macaulay, 'Relational Contracts Floating on a Sea of Custom—Thoughts About the Ideas of Ian MacNeil and Lisa Bernstein' (1999) 94 *Northwestern University Law Review* 775.

[47] D Veshi, C Venditti, R Picaro and J Bashmili, 'Challenges in Legal BIM and Civil Law in Italy: An Innovative Approach to Contracts' (2024) 1 *Rivista Giuridica dell'Edilizia* 43–56; D Veshi, C Venditti and R Picaro, 'Building Information Modelling in Italy: An Interdisciplinary Approach' (2023) 3 *Rivista Giuridica di Urbanistica* 541–565.

This alternative approach is based on Article 681 Albanian Civil Code, similar to Article 1362 Italian Civil Code, that codifies the interpretation through the common interest of the parties, and Article 684(2) Albanian Civil Code, similar to Article 1368(2) Italian Civil Code, that establishes the importance of industrial local costume for the interpretation of the contractual clauses between entrepreneurs. Additionally, it further extends the interpretation of the principle of contract interpretation through *bona fide* (Article 682(2) Albanian Civil Code, similar to Article 1366 Italian Civil Code), parties will increase the collaborative approach when the circumstances change compared to the original conditions established in the contract.

Furthermore, in the case of public procurements and for the relationship with the public administration, Article 30 Dir. 2014/24/EU has established the competitive dialogue. This is due to the fact that *there is a great need for contracting authorities to have additional flexibility to choose a procurement procedure* (Premise 42 Dir. 2014/24/EU). It shall be underlined that Article 45 Albanian Law No. 162/2020 of 23 December 2020 *On Public Procurement* establishes the competitive dialogue.

This alternative approach underlines the importance without establishing unexpectable burdens for the new professionals, such as BIM Coordinator, BIM Manager, or BIM Modeler. This is fundamental in the case of Albania where these new professionals are not yet recognized, and there are only there are only draft bills addressing the professional orders for engineers [48] and architects.[49]

However, this approach should be applied as a subsidiary approach if the application of the traditional approach is not effective. Therefore, in projects where BIM is applied but there is the possibility to have a separation of rules, eventually in the case of federated BIM system, although the relational approach improves collaboration among project participants,[50] the relational approach should not be applied. On the contrary, the strict application of the traditional approach in the case of integrated BIM will lead to several challenges.

4. Conclusion.[*h]

BIM is a working method in the construction industry that is also employed in Albania. While the Italian legislature has regulated civil relations within BIM contracts through Legislative Decree No. 209 of 31 December 2024, the Albanian lawmaker has not yet introduced a corresponding legal framework for BIM or for civil relations arising under BIM contracts.

[48] Ministria e Infrastrukturës dhe Energjisë, *Konsultimi Publik – Projektligj për disa shtesa dhe ndryshime në ligjin nr. 162/2020 "Për Prokurimin Publik"* https://www.infrastruktura.gov.al/single-konsultimi/?id=441
[49] Qeveria e Shqipërisë, *Konsultim Publik – Projektligj për disa shtesa dhe ndryshime në ligjin nr. 162/2020 "Për Prokurimin Publik"* https://www.konsultimipublik.gov.al/Konsultime/Detaje/443
[50] B Jones, 'Integrated Project Delivery (IPD) for Maximizing Design and Construction Considerations Regarding Sustainability' (2014) 95 *Procedia Engineering* 528–538.

[*h] The author of this paragraph is C. Venditti

This paper addressed the following research question: can Legislative Decree No. 209 of 31 December 2024 serve as a model for Albania? Two key features of the Italian decree are particularly relevant: the exemption clauses between parties and the introduction of the *Accordo Collaborativo* (collaborative agreement).

First, Article 1229(1) of the Italian Civil Code allows for liability exemptions, except in cases of intent or gross negligence. By contrast, Article 41(8-*bis*) of the Italian Code of Public Contracts prohibits any agreement that excludes or limits the designer's liability for errors or omissions that wholly or partially compromise the construction or future use of the work. A similar principle is already entrenched in Albanian law, as the Albanian Civil Code prohibits any agreement that excludes or limits a party's liability for failure to perform obligations (Article 479).

Second, Legislative Decree No. 209 of 31 December 2024 introduces the alliance contract in Italian public procurement, as the application of traditional, rigid rules had created multiple challenges. In Albania, no registry exists for newly emerging BIM professionals, who would bear primary responsibility under such contracts. Moreover, although civil engineers and architects are recognized as regulated professionals, current legislative initiatives only include draft bills addressing professional orders for these professions. Other challenges include the practical impossibility of separating roles under integrated BIM, the emergence of unforeseen circumstances during project implementation that cannot be fully anticipated through contractual annexes, and the increased costs and delays that could arise from strict application of the doctrines of "duty of care" or reliance on others.

The alliance contract, or in the case of the Italian legal system, the collaborative agreement is inherently based on collaborative technologies, which aligns with the principles underpinning BIM. From a legal perspective, the alliance relies on the interpretation of contracts in good faith and in accordance with the common interests of the parties—principles expressly recognized in the Albanian Civil Code (Articles 682(2) and 684(2), analogous to Articles 1366 and 1368(2) of the Italian Civil Code). Furthermore, the alliance model draws upon competitive dialogue, which is likewise recognized under Article 45 of Albanian Law No. 162/2020 of 23 December 2020 *On Public Procurement*.

Collaboration in the construction industry is therefore likely to shift practices from *ad hoc* networks for specific projects to long-term cooperation among companies. Such sustained partnerships are expected to reduce supervision and data management costs, as well as the need to engage third parties for these purposes.

In conclusion, although Albania has not yet formally recognized legal BIM or the alliance contract, this study demonstrates that the Albanian private law framework governing BIM contracts is highly analogous to the Italian system. Accordingly, the Albanian legislature could adopt the Italian model in this context, as it has done in other areas of private law.